



BENTONVILLE CITY COUNCIL AGENDA

Note – The public, members of the City Council, and City staff, may have the option to attend this meeting by remote means. For public health reasons, those who attend in person should keep in mind hygiene, the use of facial coverings, and social distancing.

Public comments can be submitted by email submitted to cc.comments@bentonvillear.com by at least 4:00 p.m. on the day of the meeting. 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 attend 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.

City Council Meeting

Tuesday, August 23, 2022 6:00 p.m.

City Hall

305 S.W. “A” Street

Planning Commission Meeting Room

***If you would like to attend virtually, please register at the following link by 4:00 p.m. on August 23, 2022:**

https://us02web.zoom.us/webinar/register/WN_aUNXjaMKSP-c0QYSTBwMWg

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: August 9, 2022

AGENDA

1. 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. (Verneti Annexation). (Pages 6-26)

2. Resolution referring Section B. Risk Zone Specific Standards, of the Flood Damage Prevention Code, to Planning Commission for a public hearing and consideration of the proposed amendment which lowers the lowest floor elevation above the base flood elevation from three feet to two feet. (Pages 27-44)

3. Planning:

- 3a. **Ordinance accepting a lot split of un-platted section land; creating new Lot 1 of Garcia Addition to the City of Bentonville, Arkansas; and for other purposes (Project Number: LS22-0024) 908 SW Tater Black Road.**

(Pages 48-50)

The Planning Commission voted 7-0, recommending approval.

A lot split of un-platted section land, creating new Lot 1 (+/- 0.37 Acres), of Garcia Addition. This plat dedicates various public utility easements as well as right-of-way along SW Tater Black Road meeting the requirements of the Master Street Plan.

- 3b(1). **Resolution amending the City of Bentonville future land use map for a specific area from Low-Density Residential to High-Density Residential; and for other purposes (Project Number: RZ22-0004) 807 SE 3rd Street.**

(Pages 51-60)

The Planning Commission voted 7-0, recommending approval.

The Future Land Use Plan currently depicts this property as Low Density Residential. The applicant requests a change in the Future Land Use Plan to High-Density Residential for the southern portion of the property. High-density residential areas include apartments, condominium buildings, senior housing, and special types of group living. These areas vary greatly in terms of density depending on scale, but typically have at least 12 units per acre. These areas may also have integrated amenities for residents, including local parks, community centers, and resident-oriented commercial uses.

The property is located within Priority Area 1, Downtown Intensification, as identified in Chapter 4 of the Bentonville Community Plan. This area highlights reinvestment in and around Downtown Bentonville.

- 3b(2). **Ordinance changing real estate in the City of Bentonville, Arkansas, from its present zoning classification of R-1, Low Density Single Family Residential to DN-1, Downtown Low Density Residential and DN-3, Downtown High Density Residential; and for other purposes (Project Number: RZ22-0004) 807 SE 3rd Street.**

(Pages 51-62)

The Planning Commission voted 7-0, recommending approval.

The applicant requested a zoning change for the northern portion of the property that fronts SE G Ct to be DN-1, Low-Density Residential. The applicant has also requested a zoning change for the southern portion of the property that fronts SE 3rd St to be DN-3, High Density Residential.

The intent of the DN-1 district is to preserve the established development pattern of portions of the downtown neighborhoods that are predominantly single-family with lots generally larger than 60 feet in width.

The intent of the DN-3 district is to allow for an increased neighborhood density through the development of small-lot single-family housing and townhouses throughout the district. These areas tend to be adjacent to downtown commercial uses. In some instances, such as at the ends of blocks, multi-family apartment buildings may be an appropriate use in this district.

- 3c(1). **Resolution amending the City of Bentonville future land use map for a specific area from Residential Estate to Mixed Use Commercial; and for other purposes (Project Number: RZ22-0040) 1001, 1003, and 1007 NE J Street.**

(Pages 63-68)

The Planning Commission voted 7-0, recommending approval.

The Future Land Use Plan currently depicts this property as Residential Estate, however, the applicant is requesting a change in the Future Land Use Plan to Mixed-Use Commercial. These areas typically include uses that provide goods and services to nearby residents. Local retail, day-to-day services, and small offices are appropriate in these areas. Vertical mixed-use developments are encouraged in mixed-use commercial areas, with upper floors including offices, services, or residential uses. Parking may be more prominent in these areas than in Downtown commercial areas, but should be sited and designed to not be detrimental to the character of the area.

The property is located within Priority Area 2, Infill, as identified in Chapter 4 of the Bentonville Community Plan. This area supports the development of vacant properties already served by infrastructure within the context of existing development.

- 3c(2). **Ordinance changing real estate in the City of Bentonville, Arkansas, from its present zoning classification of A-1, Agriculture to C-3, Mixed Use Commercial and for other purposes (Project Number: RZ22-0040) 1001, 1003, and 1007 NE J Street.**

(Pages 63-70)

The Planning Commission voted 7-0, recommending approval.

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.

4. Appointment of Celia Swanson to fill a vacancy on the Board of Adjustment. Rick Rogers is resigning from his position on the Board, effective September 14, 2022. Celia is a local business owner with 26 years of professional experience as an executive at Walmart, Inc. She has been a resident of Bentonville for 28 years. Her term will begin September 15, 2022 and expire on December 31, 2022.

(Pages 71-75)

5. Utility Board:
- 5a. Ordinance waiving the requirements for competitive bidding and declaring an emergency in entering into an agreement with Techline for to purchase UG transformers in the amount of \$1,113,574.00 plus applicable taxes. Utility Board approved 4-0. **(Pages 76-80)**
- 5b. Resolution to enter into a pole attachment agreement with E. Ritter Communications. Utility Board approved 4-0. **(Pages 81-141)**
- 5c. Resolution for approval by City Council Members to accept a change order to the previously approved Bid IFB-22-60 to Seven Valleys Concrete for the unexpected issues found during the replacement of both discharge lines, (2) check valves, (3) gate valves, and the valve vault at Lift Station #23 Vaughn. This item was approved by the Utility Board 4-0. **(Pages 142-145)**
6. Ordinance approving a change to the 2022 pay plan to upgrade the position of "HR Generalist", Grade 22 to HR Assistant Manager, Grade 34. This change is requested as part of a succession plan for the HR department. **(Pages 146-148)**
7. Ordinance for Waiver of Bid to Pinnacle Emergency Vehicles, LLC for the purchase of a 2023 Braun Ambulance in the amount of \$358,466.00. Pinnacle Emergency Vehicles LLC. is a sole source provider for this ambulance. This will complete the replacement of all front-line ambulances to the new safety standards for the Bentonville Fire Department, and maintain consistency within our fleet. Estimated build time for this ambulance is 24 - 30 months. **(Pages 149-182)**
8. Public hearing and ordinance vacating Street Right of Way and establishing a Utility Easement requested by Diana Gibson at 729 NE A Street, Demings 2nd Addition (VAC22-0008). **(Pages 183-186)**
9. Public hearing and ordinance to vacate a Drainage and Utility Easement located at Demings 2nd Addition, Block 24 Lot 27, 201 NE 7th Street (VAC22-0022). **(Pages 187-189)**
10. Resolution setting a public hearing for September 13, 2022 for all Right of Way, Drainage and Utility Easement Vacations requested by JKC Rentals, LLC for Katie Lynn courts and Eastgate Subdivision (VAC22-0003). **(Pages 190-193)**
11. Resolution setting a public hearing for September 13, 2022 for a Street Right of Way Vacation requested by Bentonville School District for New Alliance Subdivision, Lot 1 (VAC22-0021). **(Pages 194-196)**
12. Resolution setting a public hearing for September 13, 2022 for a Utility Easement Vacation requested for Lot 4 of Swaffer Subdivision (VAC22-0023). **(Pages 197-199)**
13. Resolution to award bid #IFB 22-75 to Bobcat of Northwest Arkansas for a 2022 or Current Model Compact Excavator (Long Arm), as specified. Please see attachments. **(Pages 200-279)**
14. Motion to approve resolution approving the settlement of the condemnation case the City filed against FSB Realty, LLC and authorizing a budget adjustment and expenditure of funds related thereto. **(Pages 280-283)**

15. Ordinance approving a Waiver of Bid in the amount of \$42,000.00 to TeamE Multisport for the service of providing adult masters swim instruction and triathlon services for Bentonville Parks and Recreation. **(Pages 284-292)**
16. Resolution to enter into an agreement with Excellerate Foundation dba Upskill NWA to provide ARPA funds to support job training for lower-income Bentonville residents who have been negatively impacted by the COVID-19 pandemic. **(Pages 293-301)**



Agenda Item Form

Date of City Council Meeting	23-Aug
Department	Administration
Submitted by	Camille Thompson
Phone	(479) 271-5956

Item Type: (Check Applicable Item Type)					
☐ Budget Adjustment	☐ Change Order	☐ Informational	☒ Ordinance	☐ Resolution	☐ Bid Award
Recommendation/Suggested Action (Enter recommendation in space below):					
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. (Verneti 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; MAKING THE SAME A PART OF THE CITY OF BENTONVILLE; ASSIGNING SAME TO WARDS; AND FOR OTHER PURPOSES.

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

WHEREAS, on the 25th day of July, 2022, the County Court of Benton County, Arkansas, entered an order authorizing annexation pursuant to § 14-40-609 of the Arkansas Code, finding that the petition met the requirements for annexation under that provision and directed the Clerk to forward the order to the Mayor of the City of Bentonville; and

WHEREAS, the order entered by the County Judge provides that in order to accept the annexation proposed by the petitioners, the City of Bentonville is also required to accept as part of the territory to be annexed certain dedicated public roads and rights of way abutting or traversing the property proposed to be annexed, the legal descriptions for which are included as an attachment to the County Court’s order.

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

Section 1: That the land described on the attached Exhibit “B,” which includes both the territory sought to be annexed by the petitioners and the dedicated public roads and rights of way abutting or traversing the property proposed to be annexed, is territory contiguous to and adjoining the City of Bentonville, Arkansas, and the petition to annex that property is hereby granted and the property described in Exhibit “B” is hereby accepted as part of and annexed to and made a part of the City of Bentonville;

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

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

Section 4 - Severability Provision: If any part of this Ordinance is held invalid, the remainder of this Ordinance shall continue in effect as if such invalid portion never existed; and

Section 5 - Repeal of Conflicting Provisions: All Ordinances, Resolutions, or Orders of the City Council, or parts of the same, in conflict with this Ordinance are repealed to the extent of such conflict; and

Section 6: That this Ordinance shall become effective 30 days from its passage and approval.

PASSED AND APPROVED THIS _____ DAY OF AUGUST, 2022.

APPROVED: _____
HON. STEPHANIE ORMAN, Mayor

ATTEST: _____
HON. KIRBY ROMINES, City Clerk

'EXHIBIT A'
Verneti Annexation

Verneti Properties LLC. _____ 18-10092-000

Vernetti Annexation
Exhibit 'B'

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

Beginning at the NE Corner of said NW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 34.

Thence S0°09'49"W, 847.25';
Thence N82°47'51"W, 101.49';
Thence N63°33'03"W, 69.06';
Thence N47°42'12"W, 89.11';
Thence N38°55'47"W, 108.56';
Thence N18°08'01"W, 125.94';
Thence N21°10'27"W, 93.60';
Thence N09°24'17"E, 103.10';
Thence N0°55'59"W, 107.97';
Thence N31°21'07"W, 125.35';
Thence N16°33'00"W, 141.87';
Thence S89°57'35"E, 462.61' to the Point of Beginning.

Legend

Bentonville City Limits



BENTONVILLE



Proposed Annexation

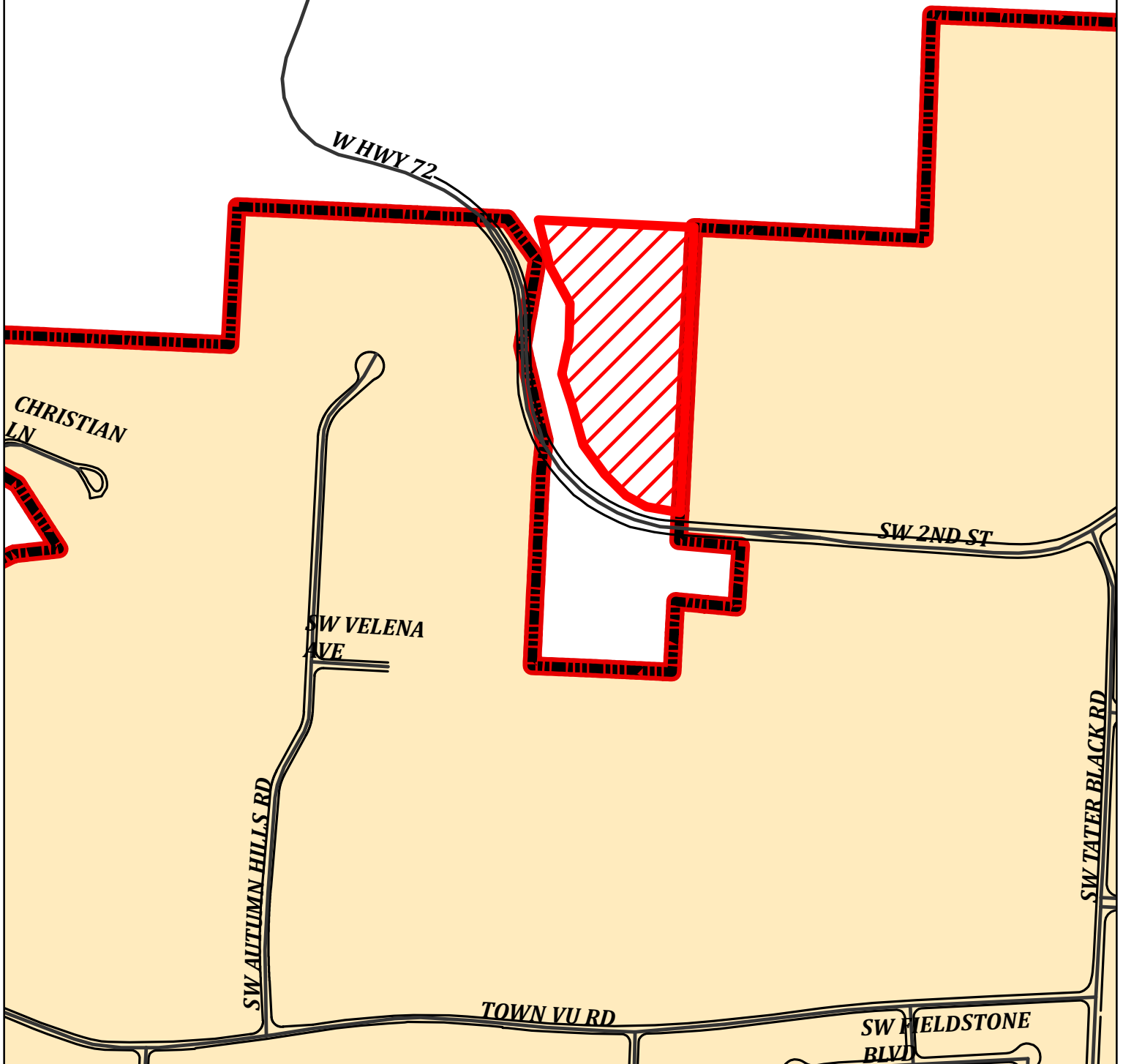


Exhibit A
Proposed Annexation
Verneti



FILED

2022 JUL -6 AM 9:26

BETSY HARRELL
CO. CLERK

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

NO. CC 2022-23

PETITION FOR ANNEXATION – 100 % OF OWNERS PETITIONING

DATE: 6-22-2022

Come now the undersigned petitioners, and state as follows:

1. That we, owning 100% of the property in the following described area, do hereby petition, pursuant to A.C.A. §14-40-609, the City Council of Bentonville, Arkansas, to annex the following lands to the City of Bentonville, Arkansas.

Refer to Exhibit "A"

2. We further state that this petition is signed by one hundred percent (100%) of the real estate owners owning one hundred percent (100%) of the acreage in said area and that the area to be annexed does not contain property whose owners do not wish to have their property annexed.

3. That said property description herein is contiguous to and adjoining the present City of Bentonville city limits, as shown on the map attached hereto as Exhibit "B".

4. That no enclaves will be created if this petition is accepted and the territory annexed into the City of Bentonville.

5. 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.

6. That a letter or title opinion from a certified abstractor or title company verifying that the petitioners are all owners of record of the relevant property or properties is attached hereto as Exhibit "C" and is made part of this petition as if set out word for word herein.

7. That a letter or verification from a certified surveyor or engineer verifying that the relevant property or properties are contiguous with the City of Bentonville and that no enclaves will be created if the property or properties are accepted by the City of Bentonville is attached hereto as Exhibit "D" and is made part of this petition as if set out word for word herein.

8 That each of the undersigned persons executing this petition has confirmed by their signature a desire that their property, which is included in the property described above, be annexed into the City of Bentonville.

FILED

2022 JUL -6 AM 9:26

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 Signature]

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

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

6/17/22
DATE

18-10092-000
Parcel number of property to be annexed

ACKNOWLEDGMENT

State of Arkansas)
)
County of Benton)

ss.

On this the 17 day of June, 2022, before me, the undersigned officer, personally appeared Ralph C. Vermittli, 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 Signature]

NOTARY PUBLIC

My Commission Expires:

March 3, 2025



Legend

Bentonville City Limits



BENTONVILLE



Proposed Annexation

FILED

2022 JUL -6 AM 9:26

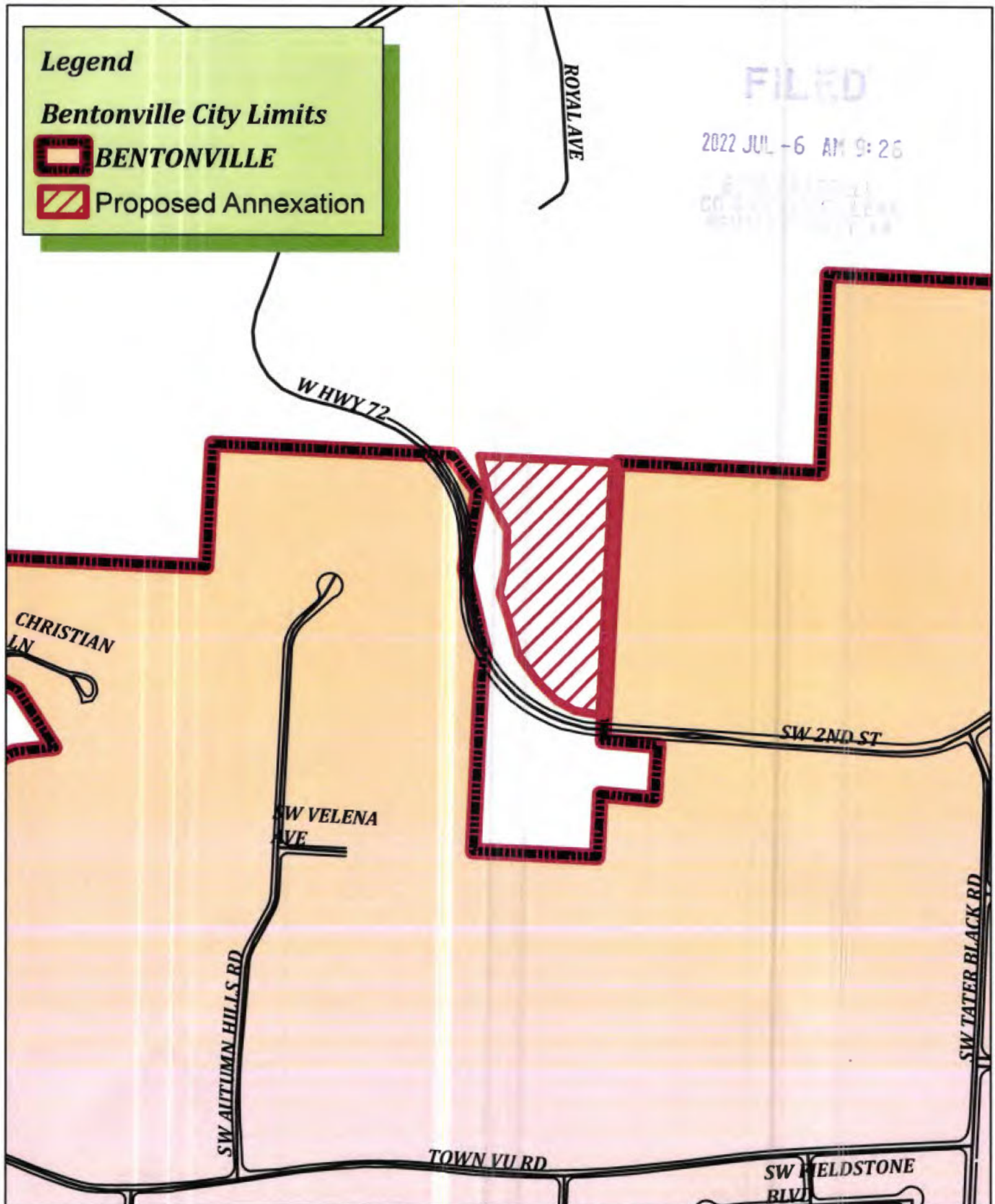


Exhibit B
Proposed Annexation
Vernetti



FILED

2022 JUL -6 AM 9:26

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CLERK
TY. AR

Vernetti Annexation

Exhibit 'B'

Part of the NW ¼ of the NE ¼ of Section 34, Township 20N, Range 31W and more particularly described as follows:

Beginning at the NE Corner of said NW ¼ of the NE ¼ of Section 34.

Thence S0°09'49"W, 847.25';
Thence N82°47'51"W, 101.49';
Thence N63°33'03"W, 69.06';
Thence N47°42'12"W, 89.11';
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Thence N31°21'07"W, 125.35';
Thence N16°33'00"W, 141.87';
Thence S89°57'35"E, 462.61' to the Point of Beginning.

Eureka Springs
70 S. Main Street, Suite 2
Eureka Springs, AR 72632

Sheridan
206 N Rose Street
Sheridan, AR 72150



First Title	National Company
----------------	---------------------

Headquarters
First National Title Company
Little Rock
415 N McKinley Street Suite 1200
Little Rock, AR 72205

2022 JUL
Greenbrier
8 Wilson Farm Road, Suite A
Greenbrier, AR 72058

Little Rock Title Company
A Division of
First National Title Company
Little Rock
1001 W. Markham Street #100
Little Rock, AR 72201

FILED

2022 JUL -6 AM 9:26

'EXHIBIT C-1'
Verneti Annexation

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INTY, AL

Verneti Properties LLC. _____ 18-10092-000

FILED

2022 JUL -6 AM 9:26

BE
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CLERK
TY. AR

Exhibit 'C-2'
Vernetti Annexation

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

Beginning at the NE Corner of said NW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 34.

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Legend

Bentonville City Limits

-  **BENTONVILLE**
-  **Proposed Annexation**

FILED

2022 JUL -6 AM 9:26

EDDY HILL
CO & JEFFERSON
COUNTY, AR

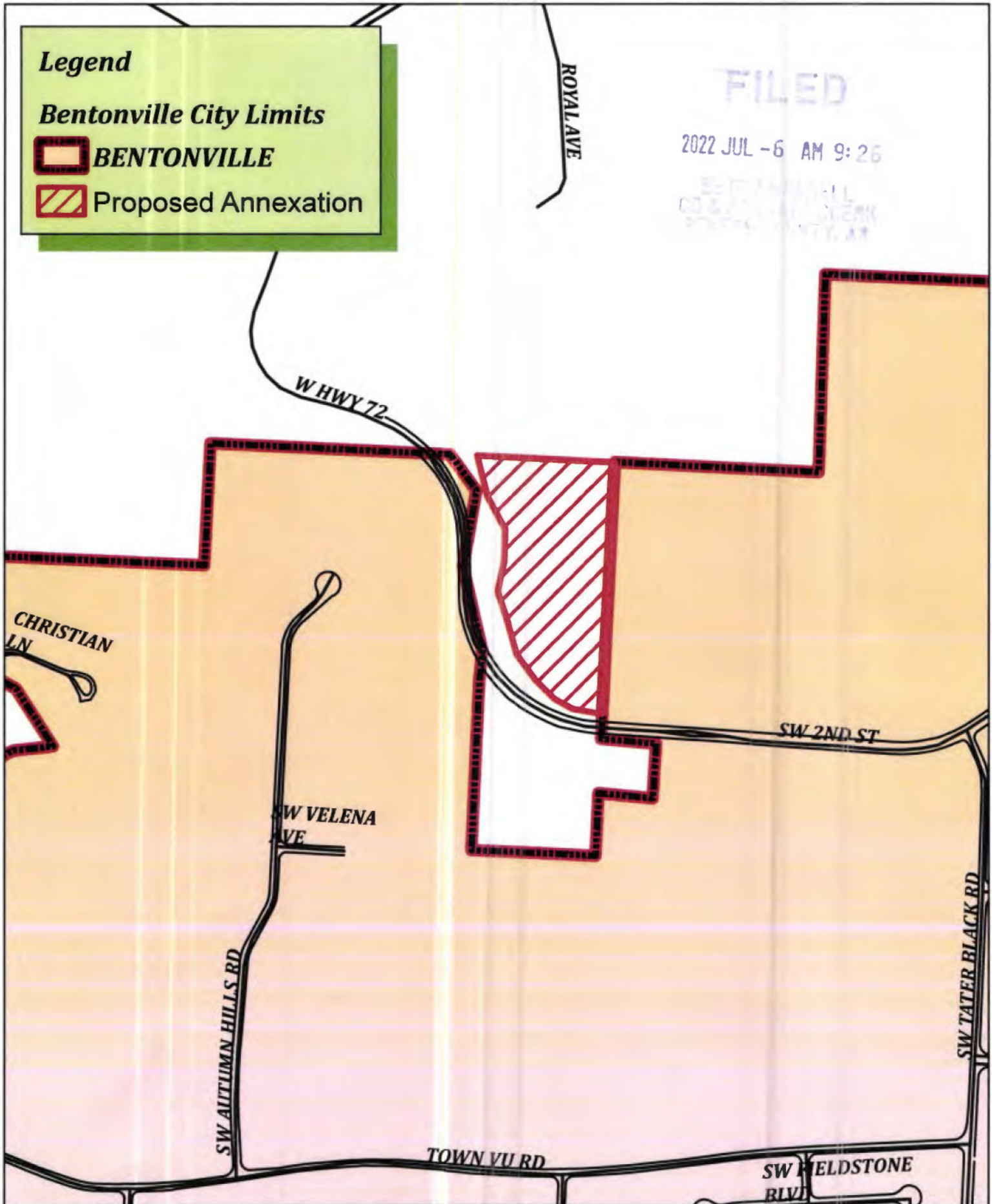


Exhibit C-2
Proposed Annexation
Vernetti Annexation



'EXHIBIT D'

FILED

Greetings:

2022 JUL -6 AM 9:26

This letter is given in connection with what is understood to be an effort to voluntarily annex certain real property (Verneti Annxation) into the City of Bentonville. I am a licensed Professional Engineer in the State of Arkansas. Based on my review, I verify that the real property described in Exhibit D-1 to this letter is contiguous with the City of Bentonville and that no enclaves will be created if the described property is accepted by the City of Bentonville.

Sincerely,



Travis Matlock, P.E.

STATE OF
TRAVIS W. MATLOCK

6-16-22

Vernetti Annexation
Exhibit 'D-1'

FILED

2022 JUL -6 AM 9:26

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

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Legend

Bentonville City Limits



BENTONVILLE



Proposed Annexation

FILED

2022 JUL -6 AM 9: 26

RECEIVED
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CITY OF BENTONVILLE

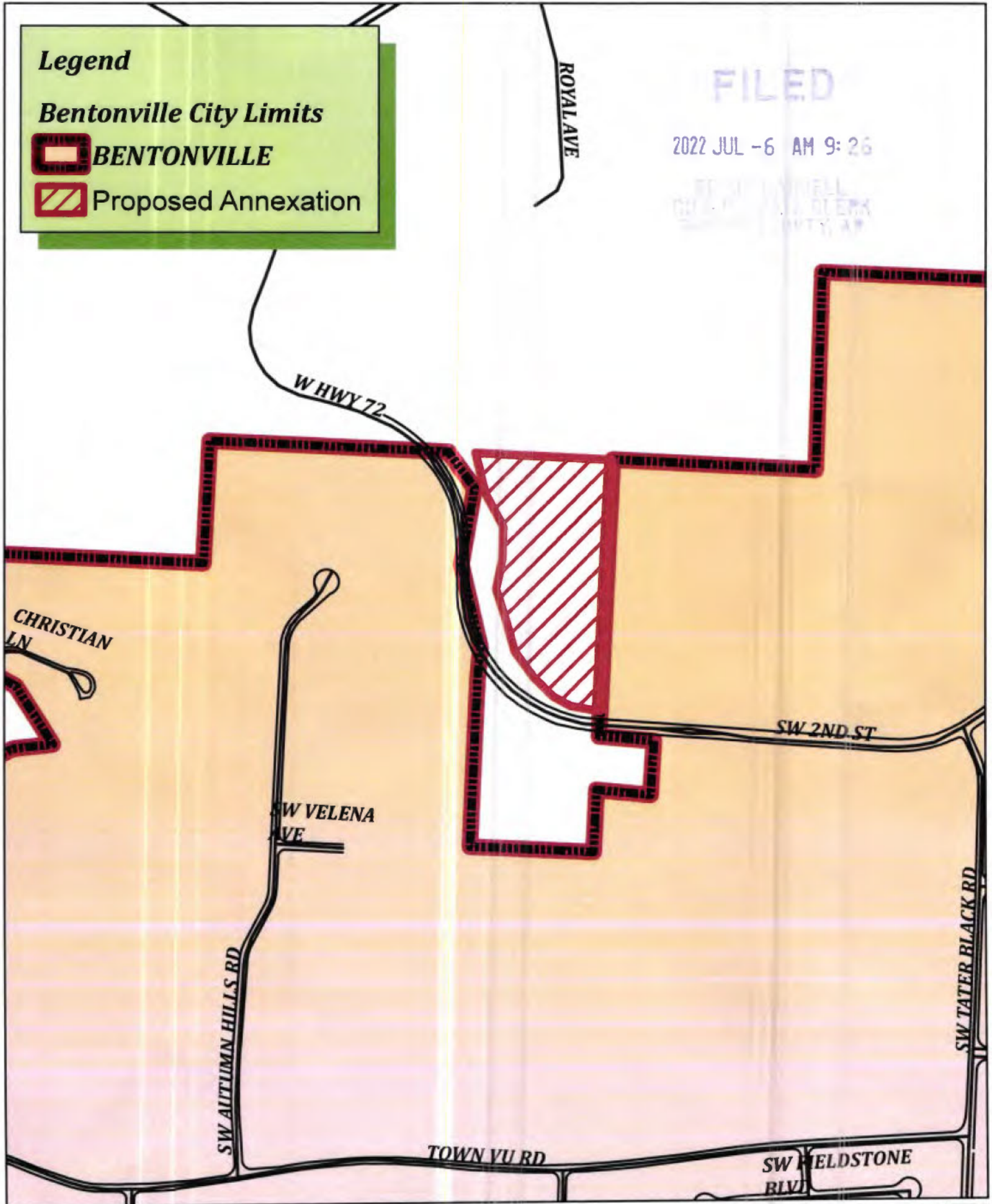


Exhibit D-1
Proposed Annexation
Vernetti Annexation





Department of Transformation and Shared Services

Governor Asa Hutchinson

2022 JUL -6 AM 9:26 Secretary Amy Fecher

Director Shelby Johnson

CO
CLERK
INTL. AR

June 14, 2022

Mr. Jim Wheelless
GIS Coordinator – City of Bentonville
305 SW A Street
Bentonville, AR 72712

RE: City of Bentonville Annexation Coordination Requirement

Mr. Wheelless,

Thank you for coordinating with our office as you seek to annex property into the City of Bentonville, AR described as the "Verneti" annexation and located in Section 34, Township 20 North, Range 31 West. This letter represents confirmation that you have coordinated with our office (Arkansas GIS Office) as specified in § 14-40-101 (Act 914 of 2015) of the 90th General Assembly.

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.

Sincerely,

A solid black rectangular box used to redact the signature of Jennifer Wheeler.

Jennifer Wheeler, Sr. GIS Analyst

Attachments:

GIS Office Map of Proposed Annexation

Legal Description

Secretary of State Municipal Change Checklist

H:\City_Annexations\Cities\Bentonville\20220614\Doc\20220614_Bentonville_Annexation_Coordination_Letter.docx

Arkansas Geographic Information Systems

501 Woodlane Street, Suite G04 * Little Rock, AR 72201 * 501.682.2767

TRANSFORM.AR.GOV

BEL
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DE CLERK
JNTY. AR



FILED

Vernetti Annexation
Exhibit 'B'

2022 JUL -6 AM 9: 27

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Thence S89°57'35"E, 462.61' to the Point of Beginning.



Agenda Item Form

Date of City Council Meeting	8/23/2022
Department	Engineering
Submitted by	City Staff at the request of City Council
Phone	

Item Type: (Check Applicable Item Type)					
☐ Budget Adjustment	☐ Change Order	☐ Informational	☐ Ordinance	☒ Resolution	☐ Bid Award
Recommendation/Suggested Action (Enter recommendation in space below):					
Resolution referring Section B. Risk Zone Specific Standards, of the Flood Damage Prevention Code, to Planning Commission for a public hearing and consideration of the proposed amendment which lowers the lowest floor elevation above the base flood elevation from three feet to two feet.					

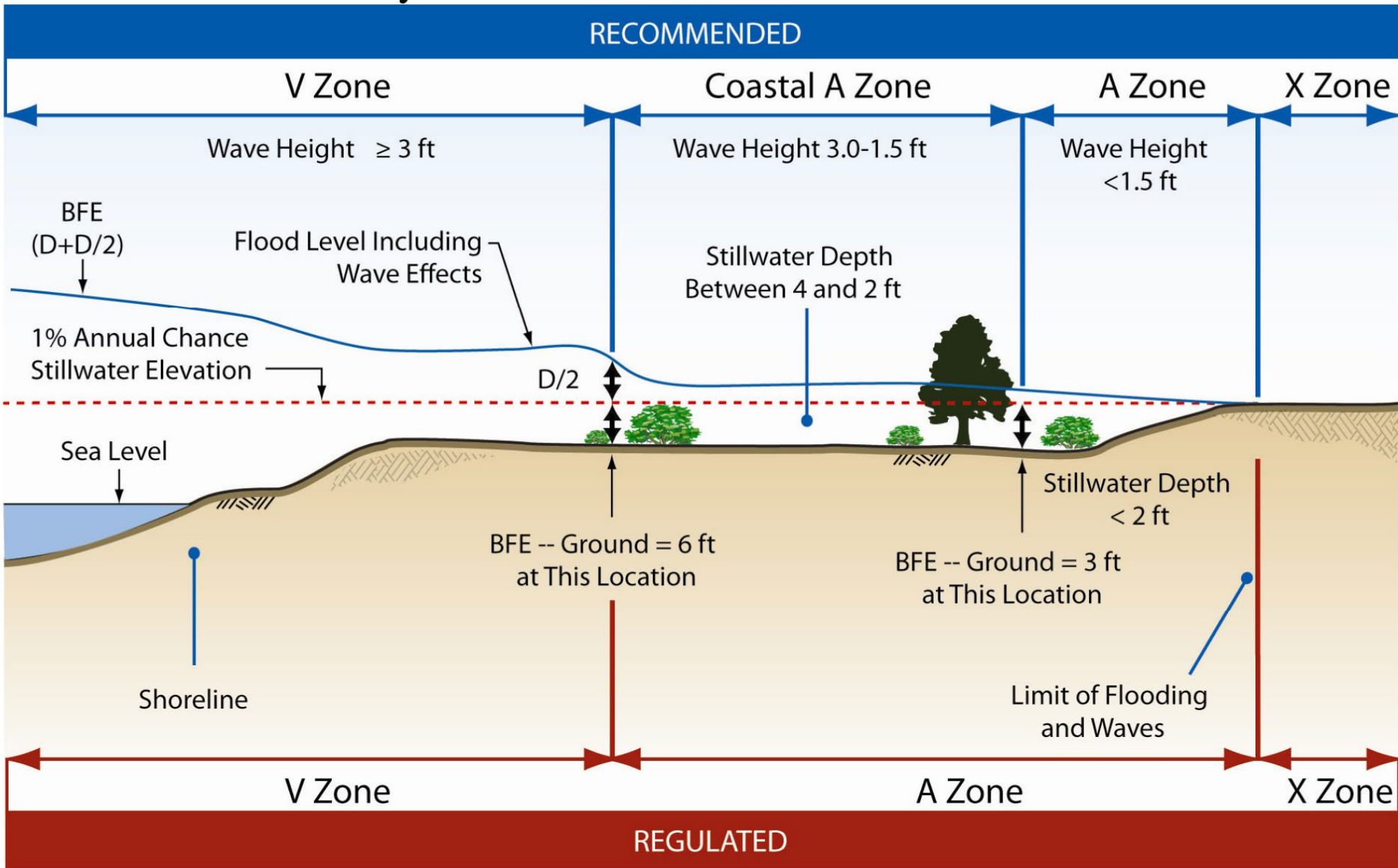
Estimated Cost	
Is this Item Budgeted?	☐ Yes ☒ No
If no, please explain how item will be funded (briefly explain in space below) :	



What is Freeboard?

Freeboard
BFE





1% Annual Chance Flooding Stillwater Depth = D

Figure 1 | Coastal Floodplain Zones

What is the current situation?

Flood Insurance Costs - May 11, 2022 Updates

Total Policies – 100

Annual Cost – Average \$1,012; Maximum \$4,929; Minimum \$201.

Current Community Rating Adjustment -10% based on CRS rating

How do other jurisdictions North and West of Little Rock address Freeboard?
(2020 population ranges from 2,397 to 399,125)

0 Freeboard – 3

1' Freeboard – 10

2' Freeboard – 21

3' Freeboard – 3 (Bentonville, Rogers, Centerton)

Foundation Type

Below are the six Foundation Types, which provide important insight as to where the flood risk is likely to begin. Buildings Elevated with Enclosure Not on Posts, Piles, or Piers will have a higher premium than buildings Elevated without Enclosure on Posts, Piles, Piers, if all rating variables are the same.



Slab on Grade



Basement



Crawlspace
(including Subgrade
Crawlspace)



Elevated with
Enclosure Not on
Posts, Piles, or Piers



Elevated with
Enclosure on Posts,
Piles, or Piers



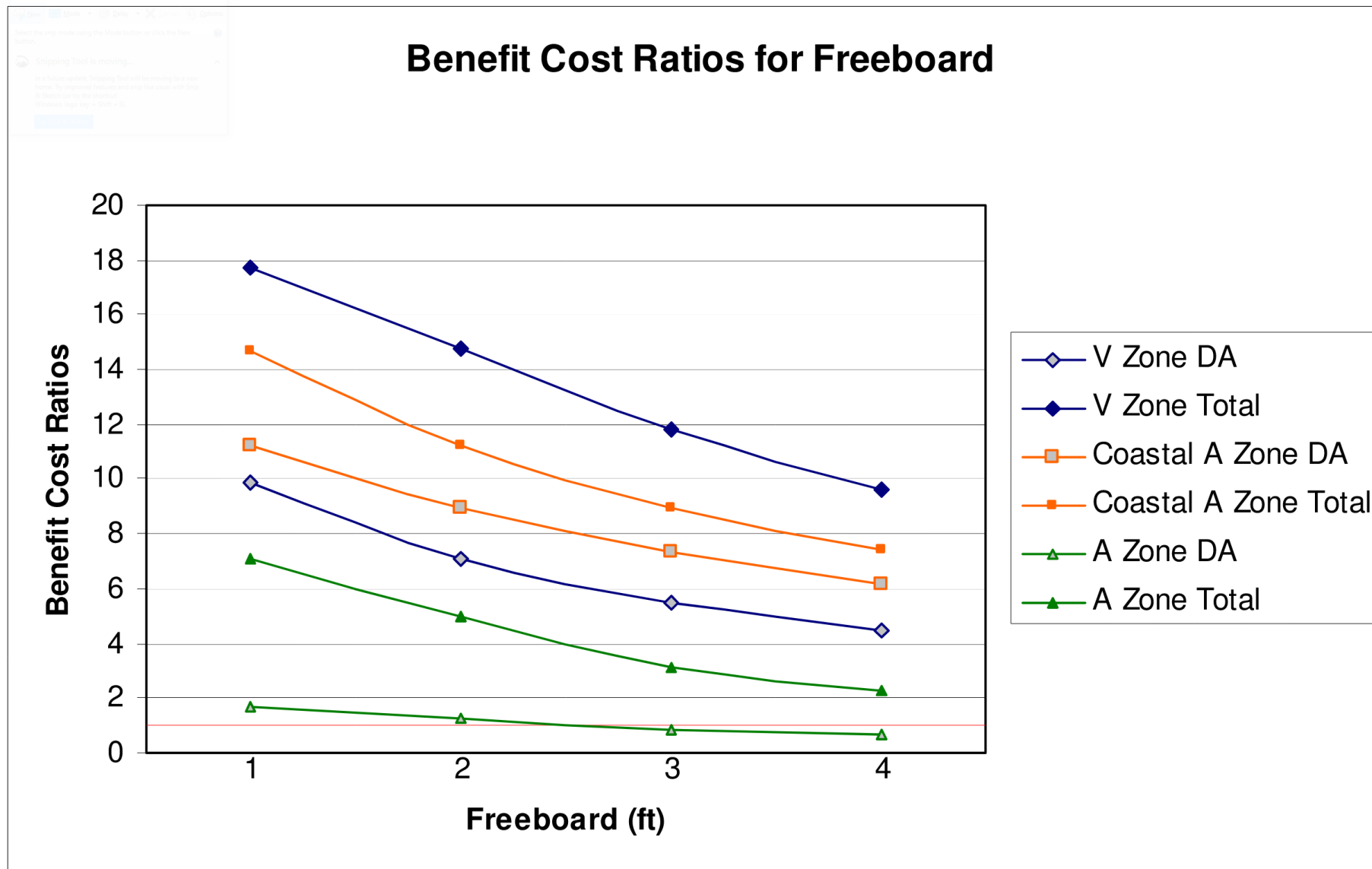
Elevated without
Enclosure on Posts,
Piles, or Piers

First Floor Height

The First Floor Height (FFH), or the height of the building's first lowest floor above the adjacent grade, is another rating variable critical to understanding the flood risk. Generally, buildings that are higher off the ground have lower risk. The following chart shows the discount percentage based on the foundation type and FFH, which is included in the amount charged for building and contents coverage. For example, a building with a crawlspace foundation and FFH of 3 feet above adjacent grade corresponds to a 22.1% discount compared to the same building having a FFH of 0. Between whole numbers, the discount for FFH is continuously provided (interpolated). For example, a building with a slab-on-grade foundation and FFH of 1.25 feet will receive a discount of -9.85%, which is a quarter of the way between the discount for 1 foot and 2 feet.

First Floor Height* (In Feet)	Slab on Grade	Basement	Crawlspace (including Subgrade Crawlspace)	Elevated with Enclosure Not on Posts, Piles, or Piers	Elevated with Enclosure on Posts, Piles, or Piers	Elevated without Enclosure on Posts, Piles, or Piers
0	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
1	-8.0%	-8.0%	-8.0%	-8.0%	-9.0%	-10.0%
2	-15.4%	-15.4%	-15.4%	-15.4%	-17.2%	-19.0%
3	-22.1%	-22.1%	-22.1%	-22.1%	-24.6%	-27.1%
4	-28.4%	-28.4%	-28.4%	-28.4%	-31.4%	-34.4%
5	-34.1%	-34.1%	-34.1%	-34.1%	-37.6%	-41.0%
6	-36.7%	-36.7%	-36.7%	-36.7%	-43.2%	-46.9%
7	-39.3%	-39.3%	-39.3%	-39.3%	-48.3%	-52.2%
8	-41.7%	-41.7%	-41.7%	-41.7%	-53.0%	-57.0%
9	-44.0%	-44.0%	-44.0%	-44.0%	-57.2%	-61.3%
10 - 14	-46.3% to -54.4%	-46.3% to -54.4%	-46.3% to -54.4%	-46.3% to -54.4%	-61.1% to -73.3%	-65.1% to -77.1%
15 - 25	-56.2% to -70.9%	-56.2% to -70.9%	-56.2% to -70.9%	-56.2% to -70.9%	-75.7% to -86.6%	-79.4% to -88.9%

**Although the chart shows FFHs up to 25 feet, we recognize it is rare that the FFH will reach those measurements for most foundation types.*



Graph 5 | A Comparison of the Benefit Cost Ratios for Damages-Avoided Only (DA) Versus the Benefit Cost Ratio Total (i.e., the combined damages-avoided benefits plus the flood insurance premium savings). The red line illustrates a Benefit Cost Ratio of 1.0.

What are the cost impacts?

A common argument opposing requirements to elevate buildings higher than required by the NFIP is the additional cost of higher foundations. The incremental cost to add up to 4 feet of additional height varies, depending on foundation type, with elevation on fill more costly than other types of foundations. FEMA estimates each foot of freeboard adds between 0.25 and 1.5 percent to the total cost of construction. Analyses show future avoided damage and lower-cost NFIP flood insurance premiums make it cost-effective to build higher. For most buildings built higher than the BFE, the annual insurance savings is enough to recover added costs within several years. Download the FEMA Fact Sheet *Building Higher in Flood Zones: Freeboard – Reduce Your Risk, Reduce Your Premium* at www.fema.gov/media-library/assets/documents/96411.

A 2006 study conducted for the American Institutes for Research* looked at these average additional costs for a 2,000 square foot house. The findings are below, updated to 2017 construction costs.

Foundation Type	Cost per additional foot
Concrete block piers	\$890
Crawlspace with concrete block walls	\$1,850
Crawlspace with poured concrete walls	\$2,155
Stem wall with fill	\$2,345
Fill only	\$4,470

Census Bureau Single Family Under Construction Index Fisher(Deflator) 2005 = 100.0 Index

<https://www.census.gov/construction/cpi/>

January 2017 = 123.8

April 2022 = 179.5

2017 Costs x 1.45 = 2022 Costs

Concrete block piers \$1,290

Crawlspace with concrete block walls \$2,682

Crawlspace with poured concrete walls \$3,125

Stem wall with fill \$3,400

Fill only \$6,481



One or two feet of additional elevation can prevent thousands of dollars in flood damage.



Reducing Lowest Floor above Base Flood Elevation

PC Date: 7/5/2022

Reviewer: Shelli Kerr, AICP, Comprehensive Planning Manager

Type	Amendment
Code Impacted	Development Code, Appendix A Flood Damage Prevention Code

Background

May 10, 2022 (City Council meeting): City Council approved an ordinance amending the Land Development Code establishing additional findings of fact with Base Level Engineering (BLE) data for Flood Hazard Information as recommended by the Federal Emergency Management Agency (FEMA). At that same meeting, City Council requested staff revisit the requirement that the lowest floor be elevated at least three feet above Base Flood Elevation (BFE).

June 7, 2022 (Planning Commission meeting): Staff presented a document that highlighted the portions of the Flood Damage Prevention Code that established the three foot requirement to Planning Commission. Planning Commission recommended that an ordinance be drafted reducing the lowest floor elevation from three feet to two feet above Base Flood Elevation for discussion.

July 5, 2022 (Planning Commission meeting): Staff presented an ordinance reducing the lowest floor elevation from three feet to two feet above Base Flood Elevation for discussion, as requested on June 7. Planning Commission voted to leave the requirement at three feet, with a vote of 5 to 1.

July 12, 2022 (City Council meeting): City Council requested that the ordinance as drafted for Planning Commission, reducing the lowest floor elevation from three feet to two feet above Base Flood Elevation, be discussed at the August 8, 2022 Committee of the Whole and on the August 9, 2022 City Council agenda.

August 9, 2022 (City Council meeting): City Council requested that the ordinance as drafted for Planning Commission, reducing the lowest floor elevation from three feet to two feet above Base Flood Elevation, be placed on the August 23, 2022 City Council agenda.

Proposed Changes

Amend Sec. B Risk Zone Specific Standards in Appendix A Flood Damage Prevention Code to reduce the lowest floor elevation above the Base Flood Elevation (BFE) from three feet to two feet.

Recommendation

Engineering, Planning staff, and Planning Commission recommend that the lowest floor elevation above the Base Flood Elevation (BFE) remain at three feet.

Memorandum



To: Mayor and City Council
From: Dan Weese, PE – Deputy Director Transportation (479) 254-2024
Date: Tuesday, July 26, 2022
Re: BFE Engineering Staff Opinion

Project Name: BFE Ordinance Revision Project # NA

I recommend that the requirement for Lowest Floor Elevation remain at 3 feet above the Base Flood Elevation.

If there are any questions regarding staff recommendation, please feel free to contact me.

RESOLUTION NO. _____

**A RESOLUTION REFERRING SECTION B. RISK ZONE SPECIFIC
STANDARDS, OF THE FLOOD DAMAGE PREVENTION CODE, TO THE
PLANNING COMMISSION FOR PUBLIC HEARING AND
CONSIDERATION OF THE PROPOSED AMENDMENT TO THE
LOWEST FLOOR ELEVATION ABOVE THE BASE FLOOD
ELEVATION; AND FOR OTHER PURPOSES.**

WHEREAS, the Flood Damage Prevention Code is adopted by reference in Article 1500.06, of the Land Development Code;

WHEREAS, City Council proposes an amendment to Section B. Risk Zone Specific Standards and refers the attached Exhibit “A” to the Planning Commission for a public hearing and discussion; and

WHEREAS, Exhibit “A” will return to City Council at the next regularly scheduled meeting, after proper public hearing and Planning Commission decision, for a vote on the proposed amendment.

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

Section 1: That Exhibit “A” will be referred to the Planning Commission for public hearing and consideration;

Section 2: That after Planning Commission action, this item will appear on the next regularly scheduled City Council meeting agenda;

Section 3 - Severability Provision: If any part of this Resolution is held invalid, the remainder of this Resolution shall continue in effect as if such invalid portion never existed; and

Section 4: Repeal of Conflicting Resolutions: All Ordinances, Resolutions, or Orders of the City Council, or parts of the same, in conflict with this Resolution are repealed to the extent of such conflict.

PASSED and APPROVED this _____ day of _____, 2022.

APPROVED:

Stephanie Orman, Mayor

ATTEST:

Kirby Romines, City Clerk

EXHIBIT “A”

ORDINANCE NO. _____

**AN ORDINANCE AMENDING THE FLOOD DAMAGE PREVENTION CODE,
SECTION B. RISK ZONE SPECIFIC STANDARDS, TO REDUCE THE
LOWEST FLOOR ELEVATION ABOVE BASE FLOOD ELEVATION FROM
THREE (3) FEET TO TWO (2) FEET; AND FOR OTHER PURPOSES.**

WHEREAS, on May 10, 2022, City Council approved an ordinance amending the Land Development Code establishing additional findings of fact with Base Level Engineering (BLE) data for Flood Hazard Information; and

WHEREAS, on August 23, 2022, City Council referred this amendment to Planning Commission for public hearing and discussion.

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

Section 1: That Bentonville Municipal Code, Appendix B Land Development Code, Article 1500 Flood Damage Prevention Code, Section B. Risk Zone Specific Standards, adopted by reference in Section 1500.06, is hereby amended as shown in the attached Exhibit “A(1)”, an electronic copy and paper copy of which is on file with the City Clerk;

Section 2: That Bentonville Municipal Code, Appendix B Land Development Code, Article 1500 Flood Damage Prevention Code, Section B. Risk Zone Specific Standards, as amended in Exhibit “A(1)”, shall be codified into Appendix B Land Development Code, Sec. 1500.06 Flood Damage Prevention Code Adopted by Reference;

Section 3 - Severability Provision: If any part of this Ordinance is held invalid, the remainder of this Ordinance shall continue in effect as if such invalid portion never existed; and

Section 4 - Repeal of Conflicting Resolutions: All Ordinances, Resolutions, or Orders of the City Council, or parts of the same, in conflict with this Ordinance are repealed to the extent of such conflict.

PASSED and APPROVED this _____ day of _____, 2022.

APPROVED:

Stephanie Orman, Mayor

ATTEST:

Kirby Romines, City Clerk

EXHIBIT “A(1)”

SECTION B. RISK ZONE SPECIFIC STANDARDS

In addition to the General Standards, the following standards apply to specific development types in specific Risk Zones, except as revised in Section E of this Article. Risk Zones listed in this Code that do not appear on the current FIRM are not applicable.

(1) In AE Risk Zones: Special Flood Hazard Areas with base floods determined

a) For Residential Structures in Zone AE:

1. For all new residential structures, the top surface of the lowest floor must have an elevation 32 feet or more above the published BFE. This elevation must be documented on an Elevation Certificate properly completed by a Professional Engineer, Surveyor or Architect licensed to practice in the State of Arkansas.
2. For all substantial improvements or substantial damage to existing residential structures, the entire structure becomes subject to the requirements of a new residential structure.
3. For any reconstruction, rehabilitation, addition, or other improvement to an existing residential structure that is less than a substantial improvement, only the improved area, but not the entire structure, becomes subject to the requirements of a new residential structure.

b) For Nonresidential Structures in Zone AE:

1. All new commercial, industrial or other nonresidential structures must either:
 - a. have the lowest floor (including basement) elevated 32 feet or more above the base flood level or
 - b. be floodproofed such that, together with attendant utility and sanitary facilities, be designed so that below an elevation of 32 feet above the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
 - c. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify on a Floodproofing Certificate that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed shall be maintained by the Floodplain Administrator.
2. For all substantial improvements or substantial damage to existing commercial, industrial or other nonresidential structures the entire structure becomes subject to the requirements of a new nonresidential structure.
3. For any reconstruction, rehabilitation, addition, or other improvement to an existing nonresidential structure that is less than a substantial improvement, only the improved area, but not the entire structure, becomes subject to the requirements of a new nonresidential structure.

c) For Manufactured Homes in Zone AE:

1. All manufactured homes that are placed or substantially improved on sites:
 - a. outside of a manufactured home park or subdivision,
 - b. in a new manufactured home park or subdivision,
 - c. in an expansion to an existing manufactured home park or subdivision, or
 - d. in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated 3 feet or more **above** the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
 2. Require that manufactured homes be placed or substantially improved on sites in an existing manufactured home park or subdivision on the community's FIRM that are not subject to the provisions of paragraph (1.) of this section be elevated so that either:
 - a. the lowest floor of the manufactured home is ~~3-2~~ feet or more above the base flood elevation, or
 - b. the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than ~~36-inches~~ 2 feet in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
 3. For all substantial improvements or substantial damage to existing manufactured home, the entire structure becomes subject to the requirements of a new manufactured home.
 4. For any reconstruction, rehabilitation, addition, or other improvement to an existing manufactured home that is less than a substantial improvement, only the improved area, but not the entire structure, becomes subject to the requirements of a new manufactured home.
- d) **Where FEMA has not established a regulatory floodway in Zone AE**, no Floodplain Development Permit may be issued unless a detailed engineering analysis is submitted along with the application that demonstrates the increase in base floodwater elevation due to the proposed development and all cumulative developments since the publication of the current FIRM will be less than 1 foot.

(2) Floodways: High risk areas of stream channel and adjacent floodplain

- a) **Developments** in regulatory floodways are **prohibited, unless**
1. **A No-Rise Certificate**, signed and stamped by a Professional Engineer licensed to practice in the State of Arkansas, **is submitted** to demonstrate through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed development would not result in any increase in flood levels within the community during the occurrence of a base flood event; **or**
 2. **All requirements of 44 CFR §65.12 are first met.**

- b) **No Manufactured Home may be placed in a regulatory floodway**, regardless of elevation height, anchoring methods, or No-Rise Certification.
-

(3) In AH or AO Risk Zones: Special Flood Hazard Areas of shallow flooding

a) For Residential Structures in Zones AH or AO:

1. All new residential structures must be constructed with the top surface of the lowest floor elevated 3 feet or more above the published BFE, or 3-2 feet or more above the highest adjacent grade in addition to the depth number specified (at least 2 feet if no depth number is specified) on the community's FIRM. This elevation must be documented on an Elevation Certificate properly completed by a Professional Engineer, Surveyor or Architect licensed to practice in the State of Arkansas.
2. For all substantial improvements or substantial damage to existing residential structures the entire structure becomes subject to the requirements of a new residential structure.
3. For any reconstruction, rehabilitation, addition, or other improvement to an existing residential structure that is less than a substantial improvement, only the improved area, but not the entire structure, becomes subject to the requirements of a new residential structure

b) For Nonresidential Structures in Zones AH or AO:

1. All new commercial, industrial or other nonresidential structure must either:
 - a. have the top surface of the lowest floor elevated 3-2 feet or more above the published BFE, or 3-2 feet or more above the highest adjacent grade in addition to the depth number specified (at least 2 feet if no depth number is specified) on the community's FIRM, with documentation on an Elevation Certificate properly completed by a Professional Engineer, Surveyor or Architect licensed to practice in the State of Arkansas; or
 - b. be floodproofed such that the structure, together with attendant utility and sanitary facilities be designed so that below 3-2 feet or more above the published BFE in Zone AH, or 3-2 feet or more above the base specified flood depth in an AO Zone, the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.
2. For all substantial improvements or substantial damage to existing commercial, industrial or other nonresidential structures the entire structure becomes subject to the requirements of a new nonresidential structure.
3. For any reconstruction, rehabilitation, addition, or other improvement to an existing nonresidential structure that is less than a substantial improvement, only the improved area, but not the entire structure, becomes subject to the requirements of a new nonresidential structure.

c) For Manufactured Homes in Zones AH or AO:

1. All manufactured homes that are placed or substantially improved on sites:
 - a. outside of a manufactured home park or subdivision,
 - b. in a new manufactured home park or subdivision,

- c. in an expansion to an existing manufactured home park or subdivision, or
 - d. in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated 3-2 feet or more above the published BFE, or 3-2 feet or more above the highest adjacent grade in addition to the depth number specified (at least 2 feet if no depth number is specified) on the community's FIRM, and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
 - 2. Require that manufactured homes be placed or substantially improved on sites in an existing manufactured home park or subdivision on the community's FIRM that are not subject to the provisions of paragraph 1. of this section be elevated so that either:
 - a. the lowest floor of the manufactured home meets the elevation standard of paragraph 1., or
 - b. the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36-inches2 feet in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
 - 3. For all substantial improvements or substantial damage to existing manufactured home, the entire structure becomes subject to the requirements of a new manufactured home.
 - 4. For any reconstruction, rehabilitation, addition, or other improvement to an existing manufactured home that is less than a substantial improvement, only the improved area, but not the entire structure, becomes subject to the requirements of a new manufactured home.
 - d) **Where FEMA has not established a regulatory floodway in Zone in Zones AH or AO**, no Floodplain Development Permit may be issued unless a detailed engineering analysis is submitted along with the application that demonstrates the increase in base floodwater elevation due to the proposed development and all cumulative developments since the publication of the current FIRM will be less than 1 foot.
 - e) **Require adequate drainage paths** around structures on slopes, to guide flood waters around and away from proposed structures.
-

(4) In "A" Risk Zones: Special Flood Hazard Areas with no base flood elevations determined

- a) **In Zone A, The applicant or the applicant's agent must determine a base flood elevation prior to construction. The BFE will be based on a source or method approved by the local Floodplain Administrator.**
- b) **For Residential Structures in Zone A:**
 - 1. For all new residential structures, the top surface of the lowest floor must have an elevation 3-2 feet or more above the BFE. This elevation must be documented on an Elevation Certificate properly completed by a Professional Engineer, Surveyor or Architect licensed to practice in the State of Arkansas.

2. For all substantial improvements or substantial damage to existing residential structures, the entire structure becomes subject to the requirements of a new residential structure.
3. For any reconstruction, rehabilitation, addition, or other improvement to an existing residential structure that is less than a substantial improvement, only the improved area, but not the entire structure, becomes subject to the requirements of a new residential structure.

c) For Nonresidential Structures in Zone A:

1. All new commercial, industrial or other nonresidential structures must either:
 - a. have the lowest floor (including basement) elevated 3-2 feet or more above the base flood level or
 - b. be floodproofed such that, together with attendant utility and sanitary facilities, be designed so that below an elevation of 3-2 feet above the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
 - c. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify on a Floodproofing Certificate that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed shall be maintained by the Floodplain Administrator.
2. For all substantial improvements or substantial damage to existing commercial, industrial or other nonresidential structures the entire structure becomes subject to the requirements of a new nonresidential structure.
3. For any reconstruction, rehabilitation, addition, or other improvement to an existing nonresidential structure that is less than a substantial improvement, only the improved area, but not the entire structure, becomes subject to the requirements of a new nonresidential structure.

d) For Manufactured Homes in Zone A:

1. All manufactured homes that are placed or substantially improved on sites:
 - a. outside of a manufactured home park or subdivision,
 - b. in a new manufactured home park or subdivision,
 - c. in an expansion to an existing manufactured home park or subdivision, or
 - d. in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated 3-2 feet or more above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
2. Require that manufactured homes be placed or substantially improved on sites in an existing manufactured home park or subdivision on the community's FIRM that are not subject to the provisions of paragraph (1.) of this section be elevated so that either:

- a. the lowest floor of the manufactured home is ~~3~~2 feet or more above the base flood elevation, or
 - b. the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than ~~36-inches~~2 feet in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
- 3. For all substantial improvements or substantial damage to existing manufactured home, the entire structure becomes subject to the requirements of a new manufactured home.
 - 4. For any reconstruction, rehabilitation, addition, or other improvement to an existing manufactured home that is less than a substantial improvement, only the improved area, but not the entire structure, becomes subject to the requirements of a new manufactured home.
- e) **Base flood elevation data and a regulatory floodway**, utilizing accepted engineering practices, shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions which is greater than 50 lots or 5 acres, whichever is lesser, if not otherwise provided.



City Council Agenda Items
For the City Council Meeting of August 23, 2022
From the August 16, 2022 Planning Commission Meeting

New Business

1. **Ordinance accepting a lot split of un-platted section land; creating new Lot 1 of Garcia Addition to the City of Bentonville, Arkansas; and for other purposes (Project Number: LS22-0024) 908 SW Tater Black Road.**

The Planning Commission voted 7-0, recommending approval.

A lot split of un-platted section land, creating new Lot 1 (+/- 0.37 Acres), of Garcia Addition. This plat dedicates various public utility easements as well as right-of-way along SW Tater Black Road meeting the requirements of the Master Street Plan.

- 2a. **Resolution amending the City of Bentonville future land use map for a specific area from Low-Density Residential to High-Density Residential; and for other purposes (Project Number: RZ22-0004) 807 SE 3rd Street.**

The Planning Commission voted 7-0, recommending approval.

The Future Land Use Plan currently depicts this property as Low Density Residential. The applicant requests a change in the Future Land Use Plan to High-Density Residential for the southern portion of the property. High-density residential areas include apartments, condominium buildings, senior housing, and special types of group living. These areas vary greatly in terms of density depending on scale, but typically have at least 12 units per acre. These areas may also have integrated amenities for residents, including local parks, community centers, and resident-oriented commercial uses.

The property is located within Priority Area 1, Downtown Intensification, as identified in Chapter 4 of the Bentonville Community Plan. This area highlights reinvestment in and around Downtown Bentonville.

- 2b. **Ordinance changing real estate in the City of Bentonville, Arkansas, from its present zoning classification of R-1, Low Density Single Family Residential to DN-1, Downtown Low Density Residential and DN-3, Downtown High Density Residential; and for other purposes (Project Number: RZ22-0004) 807 SE 3rd Street.**

The Planning Commission voted 7-0, recommending approval.

The applicant requested a zoning change for the northern portion of the property that fronts SE G Ct to be DN-1, Low-Density Residential. The applicant has also requested a zoning change for the southern portion of the property that fronts SE 3rd St to be DN-3, High Density Residential.

The intent of the DN-1 district is to preserve the established development pattern of portions of the downtown neighborhoods that are predominantly single-family with lots generally larger than 60 feet in width.

The intent of the DN-3 district is to allow for an increased neighborhood density through the development of small-lot single-family housing and townhouses throughout the district. These areas tend to be adjacent to downtown commercial uses. In some instances, such as at the ends of blocks, multi-family apartment buildings may be an appropriate use in this district.

- 3a. Resolution amending the City of Bentonville future land use map for a specific area from Residential Estate to Mixed Use Commercial; and for other purposes (Project Number: RZ22-0040) 1001, 1003, and 1007 NE J Street.**

The Planning Commission voted 7-0, recommending approval.

The Future Land Use Plan currently depicts this property as Residential Estate, however, the applicant is requesting a change in the Future Land Use Plan to Mixed-Use Commercial. These areas typically include uses that provide goods and services to nearby residents. Local retail, day-to-day services, and small offices are appropriate in these areas. Vertical mixed-use developments are encouraged in mixed-use commercial areas, with upper floors including offices, services, or residential uses. Parking may be more prominent in these areas than in Downtown commercial areas, but should be sited and designed to not be detrimental to the character of the area.

The property is located within Priority Area 2, Infill, as identified in Chapter 4 of the Bentonville Community Plan. This area supports the development of vacant properties already served by infrastructure within the context of existing development.

- 3b. Ordinance changing real estate in the City of Bentonville, Arkansas, from its present zoning classification of A-1, Agriculture to C-3, Mixed Use Commercial and for other purposes (Project Number: RZ22-0040) 1001, 1003, and 1007 NE J Street.**

The Planning Commission voted 7-0, recommending approval.

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.



Consent Agenda Items

For the Planning Commission meeting on August 16, 2022

Reviewer: Luke Aitken, Planning Technician

- ❖ The descriptions below shall serve as the staff report for each of the proposed consent agenda items.

Lot Split: Lot 1 of Garcia Addition, Roman, Adalid Najera & Maguellar-Martinez, Juana, 908 SW Tater Black Road, R-1, Low Density Single Family Residential, LS22-0024

A lot split of un-platted section land, creating new Lot 1 (+/- 0.37 Acres), of Garcia Addition. This plat dedicates various public utility easements as well as right-of-way along SW Tater Black Road meeting the requirements of the Master Street Plan.



Legend

 Pending Planning Commission Items


1 inch = 100 feet

LS22-0024 7/5/22
LOT SPLIT
GARCIA ADDITION LOT 1
PARCEL 01-00942-724



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: _____
Lionheart Enterprises, LLC

Print Name: _____

Source of Title: Warranty Deed - Book 286-Page 562

NOTARY

STATE OF: _____

COUNTY OF: _____

SUBSCRIBED AND SWORN BEFORE ME THIS _____

DAY OF _____, 2022

NOTARY PUBLIC

MY COMMISSION EXPIRES _____

NOTES

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

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

ALL STRUCTURES MUST MAINTAIN MINIMUM OF 20' CLEARANCES FROM ALL ELECTRIC LINES.

BENTON COUNTY DOES NOT HAVE ZONING.

SATTERFIELD LAND SURVEYORS DOES NOT DELINEATE WETLANDS.

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.

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

STATEMENT OF NON-BUILDABILITY

APPROVAL OF THIS PLAN DOES NOT IN ANY WAY INDICATE THAT ANY OF THE LOTS ON THIS PLAN ARE BUILDABLE ACCORDING TO THE PLANNING REGULATIONS OF BENTON COUNTY, ARKANSAS, NOR AN ENDORSEMENT BY THE PLANNING BOARD OF SAID BUILDABILITY OF SAID LOTS.

STATEMENT OF NON-ASSURANCE

THE APPROVAL OF THIS PLAT DOES NOT CARRY ANY ASSURANCE THAT THE TRACT OR TRACTS WILL QUALIFY FOR A SEPTIC SYSTEM PERMIT FROM THE ARKANSAS HEALTH DEPARTMENT.

SURVEYOR'S NOTE: This property does not lie within the 100-Year Flood Zone according to the Flood Map for the Benton County Unincorporated Area, Arkansas Community Panel No. 05007C0235K, Dated: June 05, 2012.

SURVEYOR'S NOTE: This survey was conducted under the supervision of Clovis W. Satterfield, No. 0147, or Ricky Hill, No. 1443, Satterfield Land Surveyors, P.A., Certificate of Authorization No. 718. Satterfield Land Surveyors, P.A., 1-(479)-632-3565 Hwy. 71 North, P.O. Box 640, Alma, AR 72921

SURVEYOR'S NOTE: This survey was done to mark the corners on the ground and to show observed structures. Utilities located if Requested according to utility company records, and or above ground inspection. This survey was done from description furnished to us or instruction from the person(s) named on this plat. No title search was done and record ownership, Rights of Way of road and Easements to and across this property must be confirmed by others. The Buyer or Owner of this property should satisfy themselves as to the correct owner through a title search or review by an attorney.

Satterfield Land Surveyors P.A., Copyright 2022

This plat is copyright material and is provided solely for the use of the person(s) named on this plat and may not be used or distributed to any other person(s) or company for their benefit. No license has been created, expressed or implied to copy the survey without the written consent of Satterfield Land Surveyors, P.A.. No one including the person(s) named, may reproduce this plat. Only authentic copies that appear with the surveyor's seal in red may be used. Any copies used without this red seal are considered unauthorized copies and are considered a copyright infringement. After filing with State Surveyor's office, survey becomes public record.

PROPERTY DESCRIPTION**PARCEL #01-00942-724**

Parent Tract

Northeast Quarter of the Southeast Quarter and all that part of the Southeast Quarter of the Northeast Quarter lying South of public road running East and West through the Southeast Quarter of the Northeast Quarter all in Section 34, Township 20 North, Range 31 West, containing 55 acres, more or less. Filed for record August 7, 1950 in Book 286 at Page 562.

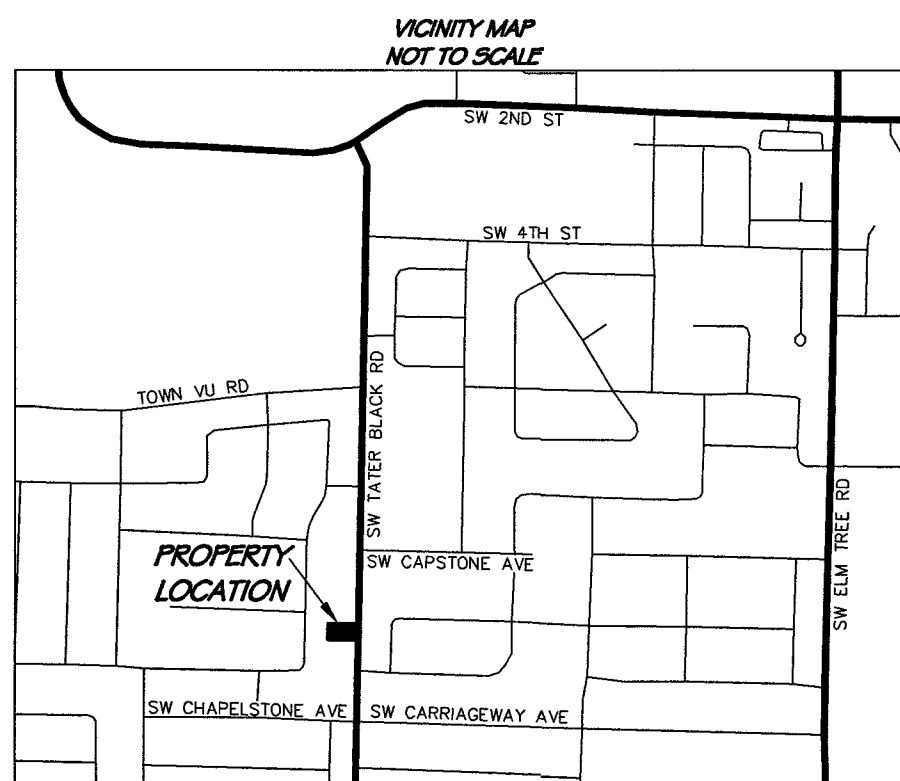
Lot 1

Part of the Northeast Quarter of the Southeast Quarter, Section 34, Township 20 North, Range 31 West, Benton County, Arkansas being more particularly described as follows:

Commencing at an existing iron pin marking the Northeast Corner of the Northeast Quarter of the Southeast Quarter. Thence along the East line of said Forty, South 02 degrees 32 minutes 54 seconds West, 932.12 feet to a set p/k nail and the Point of Beginning. Thence leaving said East line, North 87 degrees 27 minutes 06 seconds West, 30.60 feet to a set rebar with cap on the West Right of way line of SW Tater Black Road. Thence along said right of way line, South 02 degrees 23 minutes 25 seconds West, 100.00 feet to a set rebar with cap. Thence leaving said right of way line, North 87 degrees 27 minutes 06 seconds West, 129.67 feet to an existing rebar, lying on the East line of Lot 89, Stoneburrow Addition, Phase I. Thence along the East line of Lots 89 and 90, North 02 degrees 32 minutes 55 seconds East, 100.00 feet to an existing rebar lying in the East line of Lot 90. Thence leaving said East line, South 87 degrees 27 minutes 06 seconds East, 129.40 feet to the Point of Beginning, containing 0.30 of an acre and subject to any Easements of Record.

A 5.00 foot by 5.00 foot Utility Easement in part of the Northeast Quarter of the Southeast Quarter, Section 34, Township 20 North, Range 31 West, Benton County, Arkansas being more particularly described as follows:

Commencing at an existing rebar marking the Northwest Corner of the above described tract. Thence South 87 degrees 27 minutes 06 seconds East, 48.83 feet to the Point of Beginning. Thence continuing, South 87 degrees 27 minutes 06 seconds East, 5.00 feet. Thence South 02 degrees 32 minutes 54 seconds West, 5.00 feet. Thence North 87 degrees 27 minutes 06 seconds West, 5.00 feet. Thence North 02 degrees 32 minutes 54 seconds East, 5.00 feet to the Point of Beginning.

**CERTIFICATE OF APPROVAL**

Pursuant to the Bentonville Land Development Code 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**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**TOTAL ACREAGE: 0.37 ACRE
(16,000.00 SQ.FT.)****LEGEND**

- - E.R.B. - 1/2" EXISTING REBAR
- - E.I.P. - 3/4" EXISTING IRON PIN
- - S.R.B. - 1/2" SET REBAR WITH CAP
- - S.P.K.N. - SET P/K NAIL
- - W.M. - WATER METER
- - T.R. - TELEPHONE RISER
- ▨ - BUILDING
- ▨ - PAVEMENT
- ▨ - CONC. - CONCRETE
- ▨ - GRAVEL
- ▨ - RW DEDICATION
- ▨ - BUILDING
- ▨ - BOUNDARY
- ▨ - CENTERLINE
- ▨ - CONC. - CONCRETE
- ▨ - EASEMENT
- ▨ - FENCE
- ▨ - LOT LINE
- ▨ - QUARTER LINE
- ▨ - EDGE OF PAVEMENT OR GRAVEL
- ▨ - RW LINE - RIGHT OF WAY LINE
- ▨ - ONE
- ▨ - OVERHEAD ELECTRIC

SW CORNER,
NE 1/4 SE 1/4,
SECTION 34,
T-20-N, R-31-W

GARCIA ADDITION - LOT 1

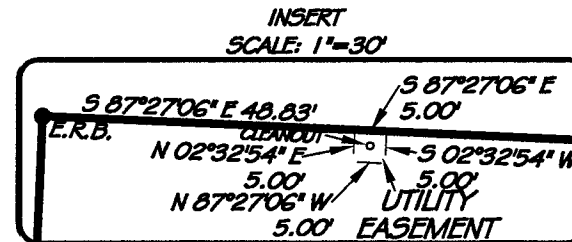
BEING A LOT SPLIT OF PART OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER, SECTION 34, TOWNSHIP 20 NORTH, RANGE 31 WEST, BENTONVILLE, BENTON COUNTY, ARKANSAS

TOWN VU ROAD
NORTH LINE OF PARENT LOT

SE NE

NE SE

PARENT TRACT
±55 ACRES
PARCEL #01-00942-724
LIONHEART ENTERPRISES LLC
2541 APPLE GLEN
SPRINGDALE AR 72764



1. PARCEL #01-00942-723
SAVANNAH WOODS
910 SW TATER BLACK RD
BENTONVILLE AR 72712

2. PARCEL #01-12132-000
P & L HOME BUILDERS LLC
C/O LINDSEY MANAGEMENT CO INC
PO BOX 130000
FAYETTEVILLE AR 72703

3. PARCEL #01-12160-000
P & L HOME BUILDERS LLC
C/O LINDSEY MANAGEMENT CO INC
PO BOX 130000
FAYETTEVILLE AR 72703

4. PARCEL #01-12161-000
P & L HOME BUILDERS LLC
C/O LINDSEY MANAGEMENT CO INC
PO BOX 130000
FAYETTEVILLE AR 72703

5. PARCEL #01-00942-740
ERIC VAUGHN
902 SW TATER BLACK RD
BENTONVILLE AR 72712

6. PARCEL #01-15047-000
THOMAS & MARGERY ANDERSON
FAMILY 2019 TRUST
THOMAS & MARGERY ANDERSON TRUSTEES
100 ANDERLY CT UNIT 1
HAYWARD CA 94541

7. PARCEL #01-15048-000
ILDEGARDIA NORMAN
904 SW CROWNVIEW ST
BENTONVILLE AR 72712

8. PARCEL #01-15075-000
CALEB STALLUS
906 SW CROWNVIEW ST
BENTONVILLE AR 72712

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.

N 745892.39
E 647546.81
SE CORNER,
NE 1/4 SE 1/4,
SECTION 34,
T-20-N, R-31-W

PROJECT #LS22-0024
500-20N-31W-0-34-210-04-0147-1443

CONTACT: RENEE GARCIA
2541 APPLE GLEN
BENTONVILLE, AR 72764
PHONE: 479-249-7960

DRAWN BY: J.D.B.
SCALE: 1" = 60'
DATE: 5-24-22
JOB NO. 47,335

Satterfield Land Surveyors P.A.
REG. ARK. & OKLA.
1928 HWY. 71 NORTH, ALMA, ARK. - PHONE No. (479) 632-3565
FAX (479) 632-5002 - WEBSITE: <http://www.slsurveying.com>

60 30 0 GRAPHIC SCALE 60 120

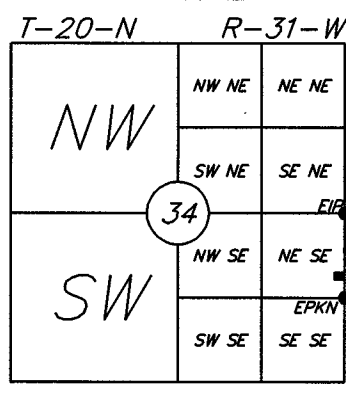
REFERENCE DEED
1 - SATTERFIELD LAND SURVEYORS - #47,166 - 4/20/22
2 - COPELIN LAND SURVEYING - #2003024 - 10/6/01

SURVEY REFERENCES
1 - SATTERFIELD LAND SURVEYORS - #47,166 - 4/20/22
2 - COPELIN LAND SURVEYING - #2003024 - 10/6/01

BASIS OF BEARING
ARKANSAS STATE PLANE COORDINATES GRID NORTH

REVISIONS

7/3/22 - REVISED AS PER CITY COMMENTS.
7/13/22 - REVISED TO ADD UTILITY EASEMENT

VICINITY MAP

- S.R.B. - SET 1/2" REBAR W/ CAP
- S.P.K.N. - SET P/K NAIL
- S.R.R.S. - SET RAILROAD SPIKE
- S.R. - SET NAIL
- E.R.B. - EXISTING REBAR
- E.I.P. - EXISTING IRON PIN
- E.P.K.N. - EXISTING P/K NAIL
- E.N. - EXISTING NAIL
- E.R.R.S. - EXISTING RAILROAD SPIKE
- EXISTING GOVERNMENT MONUMENT
- EXISTING STONE
- ▲ EXISTING STATE MONUMENT
- ▲ EXISTING R/W MARKER
- x-x- EXISTING FENCE
- ⊗ COMPUTED POINT
- F.C. = FENCE CORNER

SURVEYORS DISCLAIMER AND STATEMENT OF USE

This survey was conducted by the written or verbal authorization of the person named as the buyer and/or Use by as shown on this plat. No one has the authority to use the data or legal description from this survey except those named or their agents and the survey is only certified to the date shown on this plat. This plat is protected by copyright and any person other than those named using or relying upon this plat will be held responsible. Satterfield Land Surveyors, P.A. will not be responsible or have any liability to any other person or company who uses this plat without written authorization. After filing with State Surveyor's office, survey becomes public record.

ORDINANCE NO. _____

**AN ORDINANCE ACCEPTING A LOT SPLIT OF UN-PLATTED SECTION LAND;
CREATING NEW LOT 1 OF GARCIA ADDITION TO THE CITY OF BENTONVILLE,
ARKANSAS; AND FOR OTHER PURPOSES.
(PROJECT NUMBER: LS22-0024)**

WHEREAS, pursuant to the provisions of the Land Development Code of the Bentonville Municipal Code, the lot split of UN-PLATTED SECTION LAND, creating new LOT 1 OF GARCIA ADDITION, in the City of Bentonville, Benton County, Arkansas, was submitted to the Bentonville Planning Commission on August 16, 2022;

WHEREAS, said lot split is attached hereto as Exhibit “A”;

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 UN-PLATTED SECTION LAND, creating new LOT 1 OF GARCIA 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 are hereby authorized and directed to evidence the acceptance of said lot split by certifying said acceptance on the approved lot split;

Section 3 - Severability Provision: If any part of this Ordinance is held invalid, the remainder of this Ordinance shall continue in effect as if such invalid portion never existed; and

Section 4 - Repeal of Conflicting Provisions: All Ordinances, Resolutions, or Orders of the City Council, or parts of the same, in conflict with this Ordinance are repealed to the extent of such conflict.

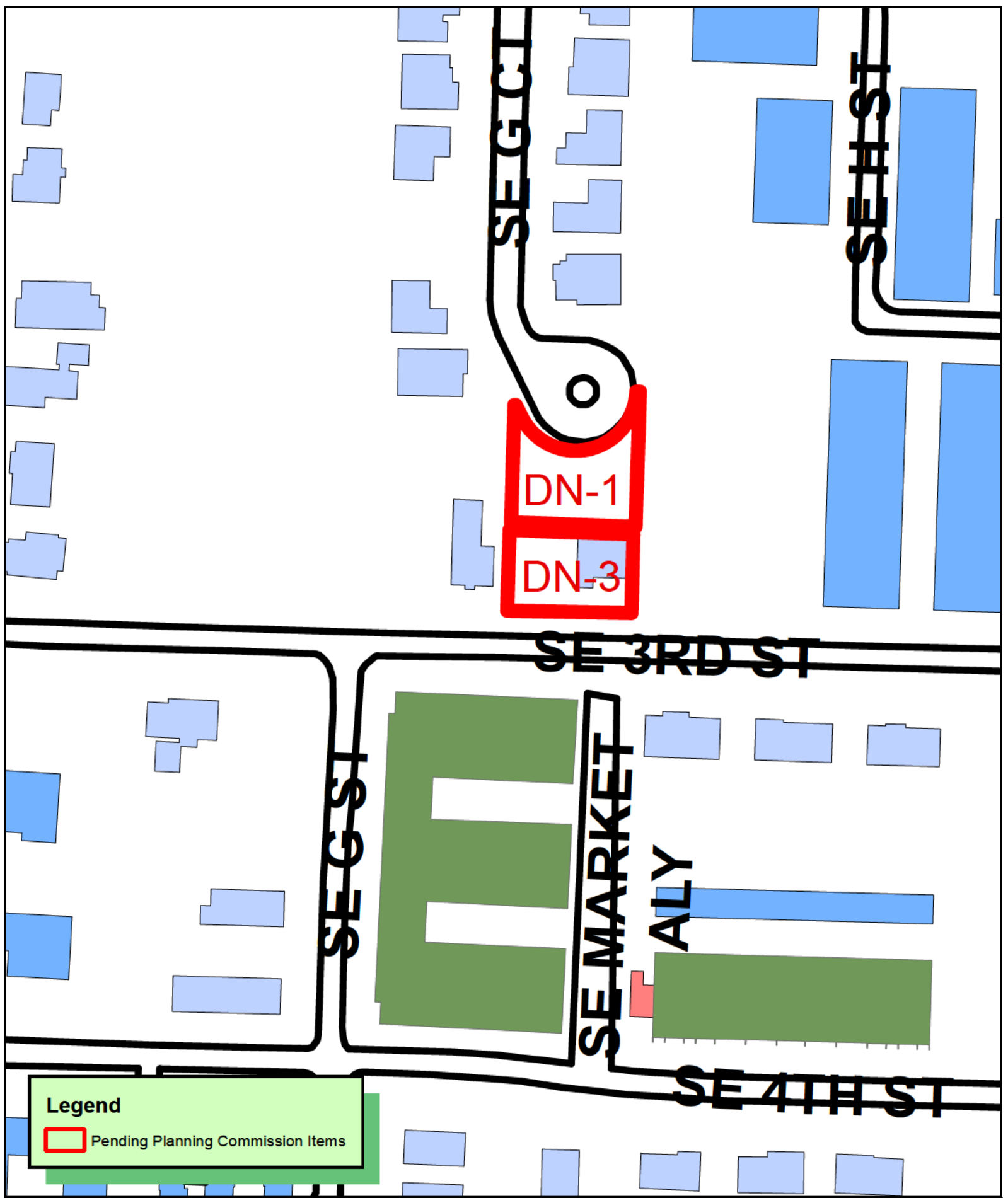
PASSED AND APPROVED this _____ day of _____, 2022.

APPROVED:

ATTEST:

Stephanie Orman, Mayor

Kirby Romines, City Clerk



Legend

 Pending Planning Commission Items


1 inch = 100 feet

RZ22-0004
REZONE R-1 TO DN-1 & DN-3
RENAISSANCE SUBDIVISION LOT 11
807 SE 3RD ST



7-21-22

City of Bentonville
305 SW A Street
Bentonville, Arkansas 72712

RE: 807 SE 3rd Street DN-1 and DN-3 Rezoning Request and Land Use Amendment

Dear Planning Staff,

Since the last Planning Commission meeting, we have taken the time to prepare a more complete design to find a compromise for all parties involved. We are requesting that the northern half of property that faces SE G Court be rezoned to DN-1 Downtown Low Density Residential and the southern half of property facing SE 3rd street be rezoned to DN-3 along with a changing the Land Use to High Density Residential for the southern lot.

Reason – This proposal is an attempt to satisfy both the housing needs for the City of Bentonville and the request of the single-family neighborhood to the north, as well as keeping with the character of the rapidly developing multi-family and mixed-use area along SE 3rd Street.

The rezoning request is compatible with existing land use patterns occurring along SE 3rd and SE G Street and rezoning provides the needed transition from DN-4 to R-1 while remaining consistent and compatible with properties on each street. A lot split will be submitted with to Planning Staff and Planning Commission contingent on the approval of the rezoning approval.

The rezoning will allow for a of residential development options for this property, creating urban living with the ability to walk and bike in the downtown area. The property is in Priority Area 1, Downtown Intensification, as identified in Chapter 4 of Bentonville Community Plan. The rezoning request is consistent and compatible with existing land use patterns occurring on SE 3rd Street and SE G Court.

Surrounding Properties –SE 3rd Street is currently under construction with multifamily projects and SE G Court is established single family homes. This property will fit form and shape with the design standards outlined under DN-1 and DN-3 zoning

Use – Residential

Utilities- Severed by 6” existing water and 6” sewer lines.

Traffic – A residential driveway access will be located off the SE 3rd Street side, leading to an alleyway between the backsides of the two lots that will house the parking garages of each development. No thru traffic will be allowed on to SE G Court: see Site Plan for Reference

JACOBS GROUP

Specializing in Downtown Housing

Signage – Per Code

Appearance - Contemporary – Brick and siding

Sincerely,



Jacobs Group

PO Box 1285

Bentonville, AR 72712



JORGENSEN
+ASSOCIATES
Civil Engineering · Surveying

124 W Sunbridge Drive, Suite 5
Fayetteville, AR 72703
Office: 479.442.9127
www.jorgensenassoc.com
Established 1985

DN-1:

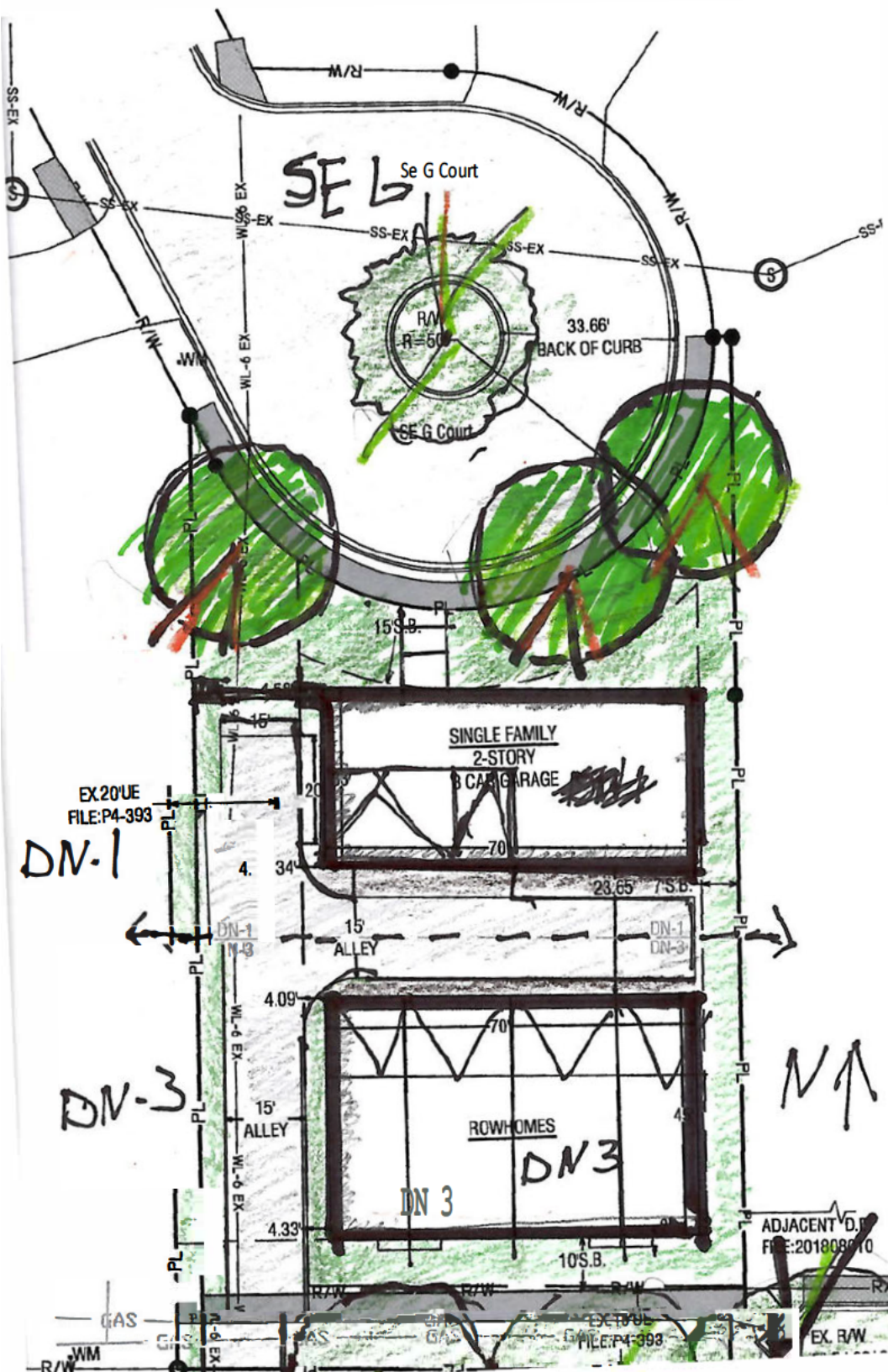
A PART OF LOT 11, RENAISSANCE SUBDIVISION TO THE CITY OF BENTONVILLE, BENTON COUNTY, ARKANSAS, AS PER FILE P4-393, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF THE SAID LOT 11, SAID POINT ALSO BEING LOCATED ON THE SOUTHERN RIGHT OF WAY OF SOUTHEAST G COURT, AND RUNNING ALONG SAID RIGHT OF WAY S25°43'02"E 10.49 FEET AND ALONG A CURVE TURNING TO THE LEFT, HAVING A RADIUS OF 50.00 FEET, AND WHOSE LONG CHORD BEARS N77°44'04"E 97.26 FEET; THENCE LEAVING SAID RIGHT OF WAY S88°49'43"E 3.29 FEET; THENCE S01°29'07"W 111.78 FEET; THENCE N88°04'21"W 102.63 FEET; THENCE N01°31'23"E 97.18 FEET TO THE POINT OF BEGINNING, CONTAINING IN ALL 0.17 ACRES, MORE OR LESS. SUBJECT TO EASEMENTS AND RIGHTS OF WAY OF RECORD.

DN-3:

A PART OF LOT 11, RENAISSANCE SUBDIVISION TO THE CITY OF BENTONVILLE, BENTON COUNTY, ARKANSAS, AS PER FILE P4-393, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF THE SAID LOT 11, AND RUNNING 301°31'23"W 97.18 FEET TO THE TRUE POINT OF BEGINNING, AND RUNNING THENCE S88°04'21"E 102.63 FEET; THENCE S01°29'07"W 65.29 FEET TO THE NORTHERN RIGHT OF WAY OF SOUTHEAST 3RD STREET, AND RUNNING ALONG SAID RIGHT OF WAY N88°46'57"W 102.67 FEET; THENCE LEAVING SAID RIGHT OF WAY N01°31'23"E 66.56 FEET 0.16 ACRES, MORE OR LESS. SUBJECT TO EASEMENTS AND RIGHTS OF WAY OF RECORD.



From: [planning](#)
To: [Luke Aitken](#); [Christopher Hyatt](#)
Subject: FW: Pending Item at 807 SE 3rd Street
Date: Wednesday, August 10, 2022 1:33:37 PM

Hi team,

Please see below for the upcoming agenda item for Planning Commission.

Thank you!



Jana Snyder

Community Development Coordinator/Admin Assistant II

305 SW "A" Street

Bentonville, AR 72712

Office: 479.271.3122

www.bentonvillear.com

From: Samantha Underwood [REDACTED]
Sent: Wednesday, August 10, 2022 12:55 PM
To: [planning](mailto:planning@bentonvillear.com) <planning@bentonvillear.com>
Subject: Pending Item at 807 SE 3rd Street

Hello,

My name is Samantha Underwood and I reside at [REDACTED] Bentonville, AR 72712. I have lived on this street for 8 years.

I would like to submit a comment on the upcoming pending item at 807 SE 3rd Street as I am unable to attend the meeting.

I am concerned that the proposed rezoning will significantly increase traffic on a single-family residential cul-de-sac. Children frequently play in their front yards and additional traffic would be dangerous and impact the safety of the residents.

Even though they are requesting the property facing SE G Court to be single family, the total plan still is overall a multi-family connected complex.

The proposed plan would easily allow the property owner to build a vehicle cut-through in the future. There would also be a high likelihood of new residents using SE G Court for on-street parking for them and their guests as there is no on-street parking on SE 3rd.

This is the 3rd time this proposal has been reviewed and it is a continued burden on the residents to

have to voice their opposition each time. I have also never received a physical mail notification of this change any of the 3 times it has been submitted.

Thank you for your consideration.

Samantha Underwood

RESOLUTION NO. _____

**A RESOLUTION AMENDING THE CITY OF BENTONVILLE FUTURE LAND USE
MAP FOR A SPECIFIC AREA FROM LOW-DENSITY RESIDENTIAL TO HIGH-
DENSITY RESIDENTIAL; AND FOR OTHER PURPOSES.**

(PROJECT NUMBER: RZ22-0004)

WHEREAS, Silver Oak Properties LLC duly filed a petition with the Planning Commission requesting that the hereinafter described property situated in Benton County, Arkansas, be changed from its present land use classification of LOW-DENSITY RESIDENTIAL to HIGH-DENSITY RESIDENTIAL, which property is described as follows:

A PART OF LOT 11, RENAISSANCE SUBDIVISION TO THE CITY OF BENTONVILLE, BENTON COUNTY, ARKANSAS, AS PER FILE P4-393, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF THE SAID LOT 11, AND RUNNING 301°31'23"W 97.18 FEET TO THE TRUE POINT OF BEGINNING, AND RUNNING THENCE S88°04'21"E 102.63 FEET; THENCE S01°29'07"W 65.29 FEET TO THE NORTHERN RIGHT OF WAY OF SOUTHEAST 3RD STREET, AND RUNNING ALONG SAID RIGHT OF WAY N88°46'57"W 102.67 FEET; THENCE LEAVING SAID RIGHT OF WAY N01°31'23"E 66.56 FEET 0.16 ACRES, MORE OR LESS. SUBJECT TO EASEMENTS AND RIGHTS OF WAY OF RECORD.;

WHEREAS, the Planning Commission duly met and considered the application and duly set the petition for public hearing to be held August 16, 2022 at the Council Chambers of the City of Bentonville;

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 future land use classification as presented on the property be changed.

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

Section 1: That the above described real property is hereby changed from its present land use classification of Low-Density Residential to High-Density Residential on the City of Bentonville Future Land Use Map;

Section 2 - Severability Provision: If any part of this Resolution is held invalid, the remainder of this Resolution shall continue in effect as if such invalid portion never existed; and

Section 3 - Repeal of Conflicting Provisions: All Ordinances, Resolutions, or Orders of the City Council, or parts of the same, in conflict with this Resolution are repealed to the extent of such conflict.

PASSED AND APPROVED this ____ day of _____, 2022.

APPROVED:

ATTEST:

Stephanie Orman, Mayor

Kirby Romines, City Clerk

ORDINANCE NO. _____

**AN ORDINANCE CHANGING REAL ESTATE IN THE CITY OF BENTONVILLE,
ARKANSAS, FROM ITS PRESENT ZONING CLASSIFICATION OF R-1, LOW
DENSITY SINGLE FAMILY RESIDENTIAL TO DN-1, DOWNTOWN LOW-DENSITY
RESIDENTIAL AND DN-3, DOWNTOWN HIGH DENSITY RESIDENTIAL; AND FOR
OTHER PURPOSES.
(PROJECT NUMBER:RZ22-0004)**

WHEREAS, Silver Oak Properties, LLC, duly filed a petition with the Planning Commission requesting that the hereinafter described property situated in Benton County, Arkansas, be changed from its present zoning classification of R-1, LOW DENSITY SINGLE FAMILY RESIDENTIAL to DN-1, DOWNTOWN LOW-DENSITY RESIDENTIAL AND DN-3, DOWNTOWN HIGH DENSITY RESIDENTIAL to be used in accordance with city zoning laws and state laws, which property is described as follows:

DN-1:

A PART OF LOT 11, RENAISSANCE SUBDIVISION TO THE CITY OF BENTONVILLE, BENTON COUNTY, ARKANSAS, AS PER FILE P4-393, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHWEST CORNER OF THE SAID LOT 11, SAID POINT ALSO BEING LOCATED ON THE SOUTHERN RIGHT OF WAY OF SOUTHEAST G COURT, AND RUNNING ALONG SAID RIGHT OF WAY S25°43'02"E 10.49 FEET AND ALONG A CURVE TURNING TO THE LEFT, HAVING A RADIUS OF 50.00 FEET, AND WHOSE LONG CHORD BEARS N77°44'04"E 97.26 FEET; THENCE LEAVING SAID RIGHT OF WAY S88°49'43"E 3.29 FEET; THENCE S01°29'07"W 111.78 FEET; THENCE N88°04'21"W 102.63 FEET; THENCE N01°31'23"E 97.18 FEET TO THE POINT OF BEGINNING, CONTAINING IN ALL 0.17 ACRES, MORE OR LESS. SUBJECT TO EASEMENTS AND RIGHTS OF WAY OF RECORD.

DN-3:

A PART OF LOT 11, RENAISSANCE SUBDIVISION TO THE CITY OF BENTONVILLE, BENTON COUNTY, ARKANSAS, AS PER FILE P4-393, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF THE SAID LOT 11, AND RUNNING 301°31'23"W 97.18 FEET TO THE TRUE POINT OF BEGINNING, AND RUNNING THENCE S88°04'21"E 102.63 FEET; THENCE S01°29'07"W 65.29 FEET TO THE NORTHERN RIGHT OF WAY OF SOUTHEAST 3RD STREET, AND RUNNING ALONG SAID RIGHT OF WAY N88°46'57"W 102.67 FEET; THENCE LEAVING SAID RIGHT OF WAY N01°31'23"E 66.56 FEET 0.16 ACRES, MORE OR LESS. SUBJECT TO EASEMENTS AND RIGHTS OF WAY OF RECORD.

WHEREAS, the Planning Commission duly met and considered the application and duly set the petition for public hearing to be held April 19, 2022 in the Council Chambers of the City of Bentonville;

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, LOW DENSITY SINGLE FAMILY RESIDENTIAL to DN-1, DOWNTOWN LOW-DENSITY RESIDENTIAL AND DN-3, DOWNTOWN HIGH 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, LOW DENSITY SINGLE FAMILY RESIDENTIAL to DN-1, DOWNTOWN LOW-DENSITY RESIDENTIAL AND DN-3, DOWNTOWN HIGH DENSITY RESIDENTIAL to be used in accordance with the city zoning laws and state laws;

Section 2 - Severability Provision: If any part of this Ordinance is held invalid, the remainder of this Ordinance shall continue in effect as if such invalid portion never existed; and

Section 3 - Repeal of Conflicting Provisions: All Ordinances, Resolutions, or Orders of the City Council, or parts of the same, in conflict with this Ordinance are repealed to the extent of such conflict.

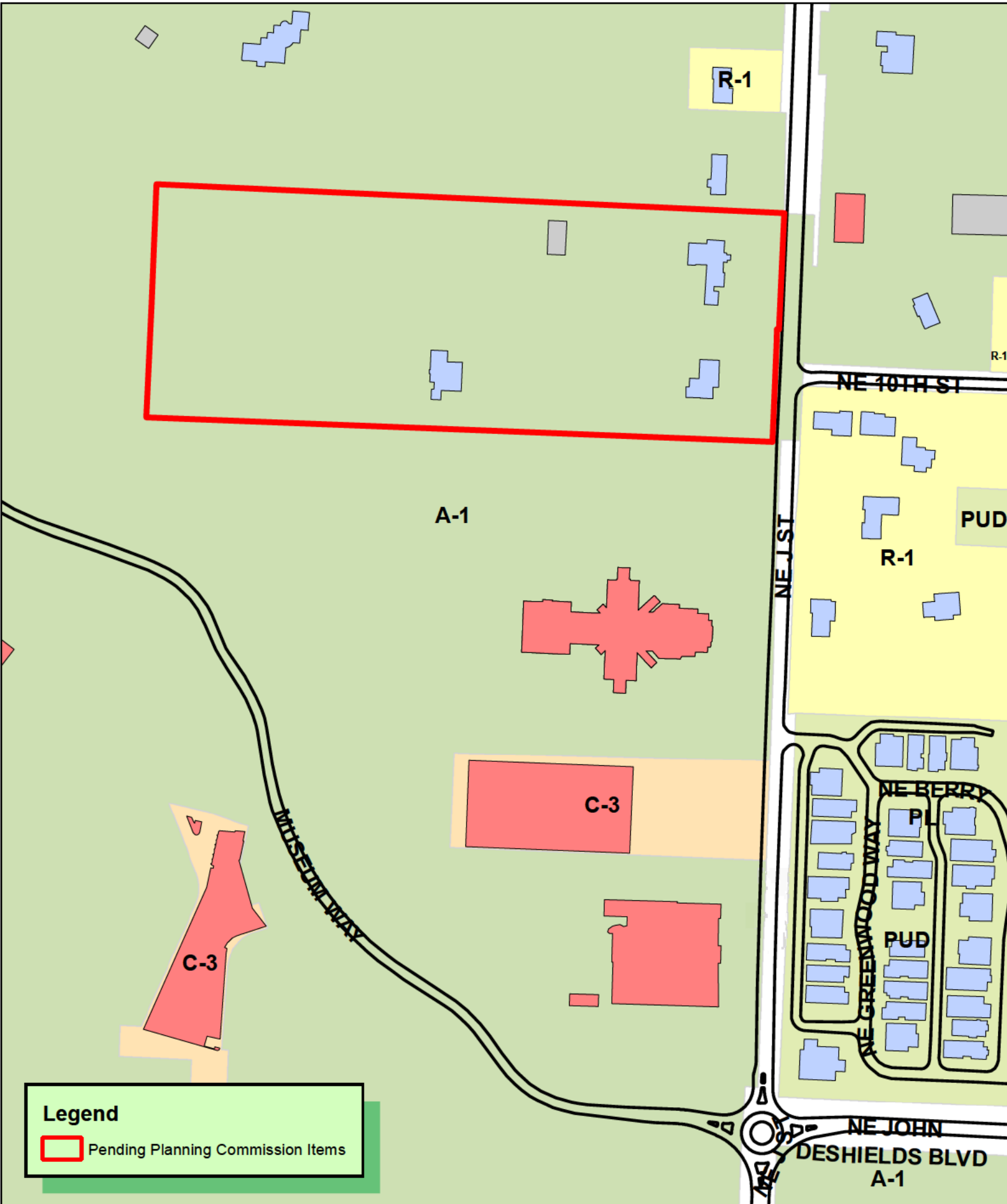
PASSED AND APPROVED this _____ day of _____, 2022.

APPROVED:

ATTEST:

Stephanie Orman, Mayor

Kirby Romines, City Clerk



RZ22-0040 8/16/22
REZONING A-1 TO C-2
1001-1003-1007 NE J ST



July 21, 2022

Planning Commission
Bentonville Planning Department
305 S.W. A Street
Bentonville, AR. 72712

Re: Rezoning of 1001, 1003, & 1007 N.E. J Street

Planning Commission,

Please accept this rezoning request for the properties located at 1001, 1003, and 1007 N.E. J Street which will become the future home of the Alice L. Walton School of Medicine. The request is to rezone from A-1 (Agricultural District) to C-3 (Mixed-Use Commercial) to comply with current zoning regulations and uses. In addition, a Conditional Use Permit request accompanies the rezoning request to use the property for an educational facility.

As stated in the current zoning regulations, 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. The proposed development is designed to integrate the building with the surrounding woodlands and provide connectivity to the existing museum's trail system while supporting accessible pedestrian and bike networks. The surrounding landscape is designed to include woodland meditation, foraging and healing gardens, wetlands, outdoor classrooms, urban farming spaces, a rooftop terrace, and café. The proposed rezoning is consistent with the adjacent institutional uses will not adversely affect nor conflict with surrounding land uses.

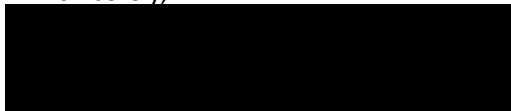
A traffic study is currently in progress and recommendations will be implemented into the proposed development as well as the required improvements to N.E. J Street.

Existing utility infrastructure is available on site via a 12" water main running parallel to the east side of J Street and a 6" gravity sanitary sewer near the north property line. Additional sanitary sewer and stormwater improvements are planned for the development.

In addition to the rezoning, an amendment to the Future Land Use Planning Map from Residential Estate to Mixed-Use Commercial for the subject property is also requested.

If you should have any questions, please do not hesitate to contact me. We appreciate your continued support of this project.

Sincerely,



Chris Bakunas, PLA
Project Manager
cbakunas@mce.us.com
479.443.2377

Christopher Hyatt

From: Kevin Butler [REDACTED]
Sent: Tuesday, August 16, 2022 3:24 PM
To: Tyler Overstreet; Camille Thompson; Bonnie Bridges
Cc: Christopher Hyatt
Subject: Tonight's Public Hearing re: Dogwood Acres LLC

Tyler, Camille, and Bonnie:

I am writing concerning tonight's proposed public hearing for Dogwood Acres LLC (item V.2. of the Planning Commission Agenda) as the item is in violation of The City of Bentonville Municipal Code. A notice of public hearing sign was not visible on the property until the afternoon of Thursday, August 11th. The code requires the sign to be posted and visible for at least 15 days prior to the public hearing. Thus, in order to not violate city code, the hearing must be postponed.

Reasoning

I own and live at a home that is directly impacted by the proposed Future Land Use Map Amendment and rezoning. As such, I and my neighbors have a strong interest in being able to review the proposals and discuss them with neighbors, city staff, and commission members, and then be able to then provide a comment at the public hearing.

Because of the lack of a visible sign at the property, I only became aware of the public hearing on August 10th by pure coincidence (others would not have known until the following day when signs appeared). Due to other demands on my schedule over the past few days, I have been unable to partake in the process that would have been afforded me if a notice sign had been at the property for the past 15 days.

Background

I contacted Bentonville's planning office via email on Wednesday, August 10th to enquire about the sign requirements since I was surprised to have just found out about it by coincidence when looking for something else on the City's website. Upon further email communication, I notified staff that signs did not go up until the next day, August 11th.

Staff responded saying that signs were posted on 7/18/2022 and provided me with a timestamped photograph. While the signs may have been there at that point, they have not been there for the past several weeks and only (re)appeared on August 11th. Earlier today I spoke with staff at the Planning office and notified them that I have a timestamped video from August 2nd clearly showing that no signs were on the property (see link here <https://photos.app.goo.gl/yUgdi7fonwXpR37x7>).

I leave my house via car almost every day and come to a stop sign directly facing the proposed property. I have been anticipating seeing public notice signs simply because I love this area and want to take part in making it the best it can be.

(Note: I took the video on August 2nd to show a friend where the medical school would be. In addition, the sign visible in the video is a white sign displaying the address of one of the homes.)

Code

Sec 301.08 (b)(2)(b) states:

Sign. The planning department will post a notice of public hearing sign on said property to be rezoned. Such sign(s) shall be clearly visible, unobstructed to the passing general public and posted on or near the front property line not later than fifteen (15) days prior to the public hearing.

A law must be interpreted to determine its meaning, which includes considering the authors' intended meaning, the public's understanding, and the purposes that were to be achieved. As written, this statute leaves no ambiguity that a notice of public hearing sign should be posted and be visible at a property for at least 15 days prior to a hearing. No reasonable interpretation would suggest that it is adequate for a sign to be there for only a portion of that time.

Best,
Kevin Butler

Bentonville, AR 72712

RESOLUTION NO. _____

**A RESOLUTION AMENDING THE CITY OF BENTONVILLE FUTURE LAND USE
MAP FOR A SPECIFIC AREA FROM RESIDENTIAL ESTATE TO MIXED-USE
COMMERCIAL; AND FOR OTHER PURPOSES.**

(PROJECT NUMBER: RZ22-0040)

WHEREAS, Chris Bakunas on behalf of Dogwood Acres 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 land use classification of RESIDENTIAL ESTATE to MIXED-USE COMMERCIAL, which property is described as follows:

OVERALL PROPERTY DESCRIPTION OF PARCELS 01-00348-000, 01-00349-000, 01-05321-000, AND 01-05320-000, IN THE NORTHEAST QUARTER (NE 1/4) OF THE NORTHWEST QUARTER (NW 1/4), SECTION 29, TOWNSHIP 20 NORTH, RANGE 30 WEST, BENTONVILLE, BENTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:BEGINNING (POB) AT A FOUND IRON PIN, SAID IRON PIN ACCEPTED AND USED AS THE SOUTHWEST CORNER OF SAID NE 1/4;THENCE ALONG THE WEST LINE OF SAID NE 1/4 THE FOLLOWING COURSES:N02°33'06"E, 230.80 FEET TO A FOUND IRON PIN;THENCE N02°36'46"E, 234.40 FEET TO A FOUND IRON PIN;THENCE N02°18'44"E, 196.71 FEET TO A FOUND IRON PIN;THENCE LEAVING SAID WEST LINE, S87°34'25"E, 1280.97 FEET;THENCE S02°05'10"W, 196.86 FEET TO A FOUND IRON PIN;THENCE S02°13'32"W, 230.79 FEET;THENCE N87°43'42"W, 4.16 FEET;THENCE S02°19'50"W, 32.41 FEET;THENCE S02°19'50"W, 197.68 FEET TO THE SOUTH LINE OF SAID NE 1/4;THENCE ALONG SAID SOUTH LINE, N87°46'00"W, 525.65 FEET TO A FOUND IRON PIN;THENCE CONTINUING ALONG SAID SOUTH LINE, N87°45'20"W, 754.41 FEET TO THE POINT OF BEGINNING (POB), CONTAINING 845,366 SQUARE FEET, 19.41 ACRES. SUBJECT TO ANY EASEMENTS, RIGHTS-OF-WAY, OR COVENANTS OF RECORD.;

WHEREAS, the Planning Commission duly met and considered the application and duly set the petition for public hearing to be held August 16, 2022 at the Council Chambers of the City of Bentonville;

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 future land use classification as presented on the property be changed.

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

Section 1: That the above described real property is hereby changed from its present land use classification of RESIDENTIAL ESTATE to MIXED-USE COMMERCIAL on the City of Bentonville Future Land Use Map;

Section 2 - Severability Provision: If any part of this Resolution is held invalid, the remainder of this Resolution shall continue in effect as if such invalid portion never existed; and

Section 3 - Repeal of Conflicting Provisions: All Ordinances, Resolutions, or Orders of the City Council, or parts of the same, in conflict with this Resolution are repealed to the extent of such conflict.

PASSED AND APPROVED this ____ day of _____, 2022.

APPROVED:

ATTEST:

Stephanie Orman, Mayor

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-3, MIXED-USE COMMERCIAL; AND FOR OTHER
PURPOSES.
(PROJECT NUMBER:RZ22-0040)**

WHEREAS, Chris Bakunas on behalf of Dogwood Acres 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-3, MIXED-USE COMMERCIAL to be used in accordance with city zoning laws and state laws, which property is described as follows:

OVERALL PROPERTY DESCRIPTION OF PARCELS 01-00348-000, 01-00349-000, 01-05321-000, AND 01-05320-000, IN THE NORTHEAST QUARTER (NE 1/4) OF THE NORTHWEST QUARTER (NW 1/4), SECTION 29, TOWNSHIP 20 NORTH, RANGE 30 WEST, BENTONVILLE, BENTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:BEGINNING (POB) AT A FOUND IRON PIN, SAID IRON PIN ACCEPTED AND USED AS THE SOUTHWEST CORNER OF SAID NE 1/4;THENCE ALONG THE WEST LINE OF SAID NE 1/4 THE FOLLOWING COURSES:N02°33'06"E, 230.80 FEET TO A FOUND IRON PIN;THENCE N02°36'46"E, 234.40 FEET TO A FOUND IRON PIN;THENCE N02°18'44"E, 196.71 FEET TO A FOUND IRON PIN;THENCE LEAVING SAID WEST LINE, S87°34'25"E, 1280.97 FEET;THENCE S02°05'10"W, 196.86 FEET TO A FOUND IRON PIN;THENCE S02°13'32"W, 230.79 FEET;THENCE N87°43'42"W, 4.16 FEET;THENCE S02°19'50"W, 32.41 FEET;THENCE S02°19'50"W, 197.68 FEET TO THE SOUTH LINE OF SAID NE 1/4;THENCE ALONG SAID SOUTH LINE, N87°46'00"W, 525.65 FEET TO A FOUND IRON PIN;THENCE CONTINUING ALONG SAID SOUTH LINE, N87°45'20"W, 754.41 FEET TO THE POINT OF BEGINNING (POB), CONTAINING 845,366 SQUARE FEET, 19.41 ACRES. SUBJECT TO ANY EASEMENTS, RIGHTS-OF-WAY, OR COVENANTS OF RECORD.;

WHEREAS, the Planning Commission duly met and considered the application and duly set the petition for public hearing to be held August 16, 2022 in the Council Chambers of the City of Bentonville;

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, 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 A-1, AGRICULTURAL to C-3, MIXED-USE COMMERCIAL to be used in accordance with the city zoning laws and state laws;

Section 2 - Severability Provision: If any part of this Ordinance is held invalid, the remainder of this Ordinance shall continue in effect as if such invalid portion never existed; and

Section 3 - Repeal of Conflicting Provisions: All Ordinances, Resolutions, or Orders of the City Council, or parts of the same, in conflict with this Ordinance are repealed to the extent of such conflict.

PASSED AND APPROVED this _____ day of _____, 2022.

APPROVED:

ATTEST:

Stephanie Orman, Mayor

Kirby Romines, City Clerk



Agenda Item Form

Date of City Council Meeting	8/23/2022
Department	Planning
Submitted by	Tyler Overstreet
Phone	(479)271-3122

Item Type: (Check Applicable Item Type)					
☐ Budget Adjustment	☐ Change Order	☐ Informational	☐ Ordinance	☐ Resolution	☐ Bid Award
Recommendation/Suggested Action (Enter recommendation in space below):					
Appointment of Celia Swanson to fill a vacancy on the Board of Adjustment. Rick Rogers is resigning from his position on the Board, effective September 14, 2022. Celia is a local business owner with 26 years of professional experience as an executive at Walmart, Inc. She has been a resident of Bentonville for 28 years. Her term will begin September 15, 2022 and expire on December 31, 2022.					

Estimated Cost	\$
Is this Item Budgeted?	☐ Yes ☐ No
If no, please explain how item will be funded (briefly explain in space below) :	



MEMO



To: City Council Members and City Clerk
From: Stephanie Orman, Mayor
CC date: August 23, 2022
RE: **Appointment of Celia Swanson to the Board of Adjustment**

I recommend Celia Swanson for appointment to the Board of Adjustment to a vacant position. Her vast professional experience, love for Bentonville, and passion for volunteerism and public service will make her an excellent addition to the Board.

Her term will begin September 15, 2022 and expire on December 31, 2022.

so

Stephanie Orman



Boards and Commissions Application Form

Applicant Information

First Name Celia

Last Name Swanson

Address

City Bentonville

State AR

Zip Code 72712

Home / Cell Phone

Email Address

Length of Bentonville
Residency 28 years

Employer Self Employed

Occupation Retail Executive

Business Phone

(Section Break)

References

Please provide 2 references

Name Ed Clifford

Email Address

Address

City Bentonville

State AR

Zip Code 72713

Phone Number

Name	Jeff Webster
Email Address	[REDACTED]
Address	[REDACTED]
City	Bentonville
State	AR
Zip Code	72712
Phone Number	[REDACTED]
Fax Number	<i>Field not completed.</i>

(Section Break)

Board Selection and Qualifications

Select all commissions and boards for which you would like to be considered:

Board of Adjustment

1. What are your qualifications for serving on this commission or board, including education and subject matter expertise?

I am a home owner and a business owner in Bentonville, AR. My home is in Downtown Bentonville and I have become involved with zoning and planning issues as the downtown landscape has been rapidly changing. I have a strong business background with 26 years of experience as a senior executive at Walmart Inc. I received my Bachelor of Science Degree in Fashion Merchandising from the University of Nebraska. I am passionate about building a strong sense of place in NWA. For that reason I serve on several non-profit boards in our region- The Jones Center for Families, Excellerate Board and Arkansas Children's Foundation Board.

2. Why would you like to be considered for appointment to this commission or board?

Our community is growing very rapidly. My vision is to embrace growth while preserving our history. I am willing to learn, study and prepare for issues brought before the Board of Adjustments. I am fair, a good judge of character, able to discern what is the right thing to do and willing to ask questions until I have clarity on the issue and the consequences. I am a good listener with an appreciation for what makes this community a great place to grow, play and thrive. I see this role as one more way to give back to a community that has

provided me and my family so much opportunity. I respect the people of Bentonville and I want to preserve their rights and build the infrastructure needed to support our growth.

3. What do you hope to be able to contribute?

I would like to learn more about the decisions being made when setting a vision for community growth. I want to enforce the code and structure established for building a healthy community. I want to develop a better understanding about how we can be better ready for the impact of our rapid growth. I want to be part of building pride in a well planned community.

(Section Break)

Qualifications for Serving

Please read the Qualifications for Serving provided below. These are the general qualifications to serve on any board or commission of the City of Bentonville.

I have read the above qualifications to serve on a city commission or board.

Yes

(Section Break)

Restrictions on Appointees

Please read the Restrictions on Appointees provided below. Then type in your name and date to confirm that you are aware of and, if appointed, agree to the following rules.

Agreement to Abide by Restrictions on Appointees

Celia M Swanson

Date

8/4/2022



Agenda Item Form

Date of City Council Meeting	8/23/2022
Department	Inventory Control
Submitted by	Travis Matlock
Phone	(479) 271-3145

Item Type: (Check Applicable Item Type)					
☐ Budget Adjustment	☐ Change Order	☐ Informational	☒ Ordinance	☐ Resolution	☐ Bid Award
Recommendation/Suggested Action (Enter recommendation in space below):					
Ordinance waiving the requirements for competitive bidding and declaring an emergency in entering into an agreement with Techline for to purchase UG transformers in the amount of \$1,113,574.00 plus applicable taxes. Utility Board approved 4-0.					

Estimated Cost	\$1,113,574.00
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: **AUGUST 23, 2022**

TO: **City Council, Mayor Orman**

FROM: Travis Matlock, Electric Utility Director

RE: **TRANSFORMERS**

The City of Bentonville recommends waiving the requirements for competitive bidding and enter into an agreement with Techline to purchase UG transformers in the amount of \$1,113,574.00 plus applicable taxes.

With current supply chain issues and the rate at which commodities are changing, Bentonville staff has a made a decision to obtain 3 quotes and waive the requirements for competitive bidding. The bid process takes an extra 2 weeks, making the total time to purchase wire approximately 1 month due to the Utility Board and City Council schedules. The possibility exists that the price will dramatically change during this month. The process staff establish still ensures we will get the lowest price, but does not add the extra time.

The OH wire prices/lead time is not being affected the same way UG wire, transformers, or junction boxes.

Utility Board approved 4-0.

[illegible]

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING THE MAYOR AND THE CITY CLERK TO ENTER INTO AN AGREEMENT WITH TECHLINE, FOR THE PURCHASE OF CERTAIN TRANSFORMERS, IN THE AMOUNT OF ONE MILLION ONE HUNDRED THIRTEEN THOUSAND FIVE HUNDRED SEVENTY-FOUR DOLLARS (\$1,113,574.00), PLUS APPLICABLE TAXES; WAIVING THE REQUIREMENT OF COMPETITIVE BIDDING; DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES.

WHEREAS, the City of Bentonville Electric Utilities Department requires various transformers in order to provide services to citizens and developments;

WHEREAS, the City of Bentonville Electric Utilities Department has negotiated with Techline for the purchase of transformers in order to meet said requirements and provide for delivery earlier than other vendors;

WHEREAS, soliciting bids would not produce competitive results as supply chain and manufacturing delays have caused issues with vendors and the ability to bid and hold bid prices pending award; and

WHEREAS, this purchase will be made using budgeted funds.

NOW, THEREFORE, BE IT ORDAINED 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 an agreement for the purchase of pole mounted transformers from Techline in the amount of one million one hundred thirteen thousand five hundred seventy-four dollars (\$1,113,574.00), plus applicable taxes;

Section 2: Because of market volatility and extended lead times related to these products, an exceptional circumstance exists, and it would be neither practical nor feasible to advertise for competitive bidding so that requirement is herein waived;

Section 3 – Emergency Clause: That this Ordinance is necessary for the public peace, health, safety and welfare and because of such an emergency is declared to exist and this Ordinance shall be in full force and effect from and after the date of its passage and approval;

Section 4 - Severability Provision: If any part of this Ordinance is held invalid, the remainder of this Ordinance shall continue in effect as if such invalid portion never existed; and

Section 5 - Repeal of Conflicting Ordinances: All Ordinances of the City Council, or parts of Ordinances of the City Council, in conflict herewith are hereby repealed to the extent of such conflict.

PASSED and APPROVED this _____ day of _____, 2022.

APPROVED:

STEPHANIE ORMAN, Mayor

ATTEST:

KIRBY ROMINES, City Clerk



Agenda Item Form

Date of City Council Meeting	8/23/2022
Department	Electric
Submitted by	Traivs Matlock
Phone	479-271-5941

Item Type: (Check Applicable Item Type)					
☐ Budget Adjustment	☐ Change Order	☐ Informational	☐ Ordinance	☒ Resolution	☐ Bid Award
Recommendation/Suggested Action (Enter recommendation in space below):					
Resolution to enter into a pole attachment agreement with E. Ritter Communications. Utility Board approved 4-0.					

Estimated Cost	
Is this Item Budgeted?	☐ Yes ☐ No
If no, please explain how item will be funded (briefly explain in space below) :	



MEMORANDUM

DATE: August 23, 2022

TO: City Council, Mayor Orman

FROM: Travis Matlock, Electric Utility Director

RE: Pole Attachment Agreement – Ritter Communications

Electric Dept. staff recommends entering into a pole attachment agreement with E. Ritter Communications.

Per FCC requirements, utility owners must allow franchised communication attachers to attach to the poles. E. Ritter has statewide franchise agreement for the installation of fiber. This agreement outlines the requirements and rental rates for E. Ritter to attach to BEUD poles. E. Ritter will submit requests and they will be reviewed by BEUD Engineering. E. Ritter will be responsible for any modifications needed for each pole where attachment is requested.

BEUD has similar agreements with ATT and Cox.

Utility Board approved 4-0.

POLE ATTACHMENT LICENSE AGREEMENT

BETWEEN

CITY OF BENTONVILLE, ARKANSAS

AND

E. RITTER COMMUNICATIONS LLC

TABLE OF CONTENTS

1.	DEFINITIONS	3
2.	SCOPE OF AGREEMENT	7
4.	SPECIFICATIONS.....	11
5.	PRIVATE AND REGULATORY COMPLIANCE.....	14
6.	PERMIT APPLICATION PROCEDURES	15
9.	POLE MODIFICATIONS AND/OR REPLACEMENTS	19
10.	ABANDONMENT OR REMOVAL OF CITY FACILITIES.....	22
11.	REMOVAL OF LICENSEE'S FACILITIES.....	23
12.	TERMINATION OF PERMIT.....	23
14.	UNAUTHORIZED OCCUPANCY OR ACCESS.....	25
15.	FORCE MAJEURE EVENT.....	26
16.	INDEMNIFICATION	26
17.	DUTIES, RESPONSIBILITIES, AND EXCULPATION	28
18.	INSURANCE	29
19.	AUTHORIZATION NOT EXCLUSIVE	31
20.	ASSIGNMENT'	31
21.	FAILURE TO ENFORCE.....	31
22.	TERMINATION OF AGREEMENT	32
23.	TERM OF AGREEMENT	32
24.	AMENDING AGREEMENT	32
25.	DISPUTE RESOLUTION.....	33
26.	NOTICES	33
27.	RECEIVERSHIP, FORECLOSURE, OR ACT OF BANKRUPTCY	35
28.	PERFORMANCE BONDS.....	35
29.	ENTIRE AGREEMENT	36
30.	SEVERABILITY.....	36
31.	GOVERNING LAW	37
32.	INCORPORATION OF RECITALS AND APPENDICES	37
33.	MISCELLANEOUS PROVISIONS.....	37

POLE ATTACHMENT LICENSE AGREEMENT

This Pole Attachment License Agreement ("Agreement") is made and entered into on the ____ day of _____ 2022 ("Effective Date"), by and between the City of Bentonville, Arkansas, a municipal corporation (hereinafter "CITY"), and E. Ritter Communications LLC d/b/a Ritter Communications, a Delaware limited liability company authorized to do business in Arkansas, (hereinafter "Licensee") (collectively Parties).

RECITALS

- A. Licensee proposes to install and maintain Communications Facilities and associated communications equipment on CITY's Poles to provide Communications Services to the public; and
- B. CITY is willing, when it lawfully may do so, to issue one or more Permits authorizing the placement or installation of Licensee's Attachments on CITY's Poles, provided that CITY may refuse, on a non-discriminatory basis, to issue a Permit where there is insufficient Capacity or for reasons relating to safety, reliability, generally applicable engineering purposes, and/or any other Applicable Standards; and
- C. CITY hereby excludes from the terms of this Agreement: (i) all poles used to support voltages in excess of 35 kV and lighting standards and (ii) any portion of CITY's underground duct system, without the express written consent of CITY.
- D. This Agreement embodies the entire agreement between CITY and Licensee with respect to the subject matter of this Agreement, and supersedes and replaces any and all previous agreements entered into by and between CITY and Licensee, authorized predecessors and assignees, written or unwritten, with respect to that subject matter.

Therefore, in consideration of the foregoing recitals and of the mutual covenants, terms and conditions and remunerations herein provided, and the rights and obligations created hereunder, the Parties agree as follows:

AGREEMENT

1. DEFINITIONS

For the purposes of this Agreement, the following terms, phrases, words and their derivations shall have the meaning given herein, unless more specifically defined within a specific Article or Section of this Agreement. When not inconsistent with the context, words used in the present tense include future tense, words in the plural number include the singular number, and words in the singular number include plural number. The words "shall" and "will" are mandatory and "may" is permissive. Words not defined shall be given their common and ordinary meaning.

- 1.1 **Affiliate:** means, when used in relation to Licensee, another entity that owns or controls, is owned or controlled by, or is under common ownership or control with Licensee.

- 1.2 **Applicable Standards:** means all applicable engineering and safety standards governing the installation, maintenance and operation of facilities and the performance of all work in or around CITY's Facilities and includes CITY's clearance standards as referenced in appendices included in and made a part of this Agreement, the National Electric Safety Code (NESC), the National Electrical Code (NEC) and any subsequent federal, state, or local amendments which relate to the maintenance of proper clearances and related safety issues, the Bellcore Manual of Construction Procedures (Blue Book) and subsequent revisions thereof, the regulations of the Occupational Safety and Health Act (OSHA) and/or other reasonable requirements of CITY.
- 1.3 **Application Fee:** means the fee described in Section 3.6 and Appendix I of this Agreement, compensating CITY for the work required to process an application for an Attachment Permit.
- 1.4 **Assigned Space:** means space on CITY Poles that Licensee can use, as defined by the Applicable Standards, for the attachment or placement of wires, cables and associated equipment for the provision of Communications Service. The neutral zone or safety space is not considered Assigned Space. If rearrangements can be made so that the existing neutral zone or safety space on a Pole can be relocated in accordance with Applicable Standards it may be considered Assigned Space.
- 1.5 **Attaching Entity:** means any public or private entity, including Licensee, that has a right or privilege to attach or install equipment it owns or controls to a CITY Pole in accordance with a license agreement.
- 1.6 **Attachment(s)** means any wire, line or apparatus attached to a Pole owned by CITY, including, but not limited to, cables, Service Wires (defined below), amplifiers, power supplies, Pedestals (defined below), bonding wires, Overlashings (defined below), guy wires and anchors required to support unbalanced loads. For aerial cable and wire facilities, a single Attachment includes the vertical space consisting of a total of 12", whether wholly or partially, above or below, the point of contact (for the avoidance or doubt and by way of example, an Attachment which included 9" of vertical space above the point of contact would only include 3" of vertical space below the point of contact). Any apparatus or facilities located fully or partly outside this vertical space shall constitute an additional Attachment(s) for rental purposes; provided however, the Parties agree to review how Attachments are defined and considered under this Agreement should a significant change or advancement in technology occur that is not addressed herein. Each thru-bolt type Attachment where the Pole is drilled and bolted to support cable and/or messenger will count as a separate Attachment for rental purposes without respect to separation. Drop/Lift Poles count as one Attachment so long as all Service Wires are contained within 12" of space. Service Wires and "J-hooks" located within a space consisting of a total of 12" either above or below (but not both) of a bolted Attachment shall not constitute separate Attachments for rental purposes. Overlashed Communications Facilities, apparatus cases and power supplies existing on CITY Poles, and aerial dips/risers, strand mounted facilities, and ground blocks do not count as separate Attachments for billing purposes, but are subject to all other provisions of this Agreement, including Sections 3 and 4. Guy wires and anchors, unless a sole Attachment or drilled and bolted separately from its associated cabling, shall not

constitute an additional billable Attachment. Large apparatus cases and power supplies are prohibited in the climbing space of Poles.

- 1.7 **Attachment Fee:** means the annual fee described in Sections 1.6, Section 3, and Appendix I of this Agreement charged by CITY for Permitted Attachments of Licensee's Facilities to CITY Poles.
- 1.8 **CITY Facilities:** means all personal property and real property owned or controlled by CITY, including Poles.
- 1.9 **Cable Services:** means the provision of one-way transmission to subscribers of video programming; or other programming service, and subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service by a cable system.
- 1.10 **Capacity:** means the ability of a Pole, including after commercially viable Make-Ready Work, to accommodate an Attachment based on Applicable Standards, including space, design, and loading considerations.
- 1.11 **Communications Facilities:** means wire or cable facilities including, but not limited to, fiber optic, copper and/or coaxial cables or wires utilized to provide Communications Services, including any and all associated equipment. Unless otherwise specified by the Parties in writing, the term "Communications Facilities" does not include wireless antennae, receivers or transceivers. Strand mounted wireless technologies within Licensee's allocated space shall be considered Communications Facilities.
- 1.12 **Communications Services:** means any Telecommunications Services, information services, Cable Services, internet protocol based services or other similar services or combination of services that Licensee provides utilizing Attachments to Poles.
- 1.13 **Drop/Lift Pole:** means an ancillary pole necessary to extend service to a customer; any Attachment to such pole will, for purposes of this Agreement, be included in Licensee's inventory of Attachments to the extent consistent with Section I .6 above.
- 1.14 **Force Majeure Event:** means an event caused by riot, terrorism, war, earthquake, flood, unusually severe rain, dust storm, tornado or other catastrophic act of nature, governmental, administrative or judicial order or regulation or other event reasonably beyond the ability of CITY and/or Licensee to anticipate or control, where the event was not foreseeable and reasonable measures by CITY and/or Licensee could not have avoided or mitigated the effects it claims were caused by the event.
- 1.15 **In-Progress Inspection:** Inspection of Licensee's work being performed in accordance with an authorized Appendix B, Application To Attach, to ensure Attachments are being made in accordance with Applicable Standards, including, CITY's Specifications for Licensee's Attachments attached hereto as Appendix D and Appendix E, and any other standards and procedures set forth in this Agreement. Where non-compliant Licensee work or Attachments are found, during In-Progress Inspections or Post-Construction Inspections, subsequent follow-up inspections by CITY, or its Agent, as required to ensure compliance, will be paid by Licensee.
- 1.16 **Joint-Use Pole:** means any Pole that is used jointly by CITY and another Joint-Pole User as part of a reciprocal pole-sharing agreement.

- 1.17 **Joint-Use Pole Custodian:** means the Joint-Pole User who is tasked with primary responsibility for the administration and management of the Pole. In the absence of notice to the contrary from a Joint-Pole User, CITY shall be deemed to be the Joint-Use Pole Custodian.
- 1.18 **Joint-Pole User:** means other entities which own Poles that are jointly used by CITY and such other entity.
- 1.19 **Licensee:** means E. Ritter Communications LLC d/b/a Ritter Communications, a Delaware limited liability company authorized to do business in Arkansas and its authorized successors and assignees.
- 1.20 **Licensee's Facilities:** means Licensee's cables, wires, supporting strands, brackets, Service Wires, bonding wires, taps, line amplifiers, power supplies, Pedestals and any other equipment or property used in connection with the operation of Licensee's business. Subject to Section 1.11, unless agreed to by the Parties in writing, Licensee is not authorized to attach antennae, wireless radio transceivers or other similar devices to CITY Poles.
- 1.21 **Make-Ready Work:** means all work, as reasonably determined by CITY, and as authorized by Licensee on a fully executed Appendix C, which is required to accommodate Licensee's Communications Facilities and/or to comply with all Applicable Standards. Such work includes, but is not limited to, re-arrangement and/or transfer of CITY Facilities or existing Attachments, inspections, engineering work, pen-nitting work, tree trimming (other than tree trimming performed for normal maintenance purposes), and Pole replacement.
- 1.22 **Non-Functional Attachments:** means an Attachment or any part thereof that becomes non-functional and no longer fit for service.
- 1.23 **Occupancy:** means the use or specific reservation of Assigned Space for Attachments on the same CITY Pole.
- 1.24 **Overlash/Overlapping:** means to place an additional wire or cable Communications Facility onto an existing Attachment.
- 1.25 **Other Licensee:** means any entity, other than Licensee, to which CITY has extended, or in the future extends, a license to attach facilities to CITY Poles.
- 1.26 **Pedestals Vaults/Enclosures:** means above- or below-ground housings that are used to enclose a cable/wire splice, power supplies, amplifiers, passive devices and/or provide a service connection point and that shall not be attached to CITY Poles. (See Appendix D - Specifications For Licensee's Attachments.)
- 1.27 **Permit or Permitted:** means the written or electronic authorization from CITY for Licensee to make or maintain Attachments to specific CITY Poles pursuant to the requirements of this Agreement. (See Article 6 and applicable Appendices.)
- 1.28 **Pole:** means an electric distribution system utility pole owned by CITY that is capable of supporting Communications Facilities Attachments.

- 1.29 **Post-Construction Inspection:** means the survey inspection that may be performed by CITY to determine and verify that the Attachments have been made in accordance with Applicable Standards and the Attachment Permit.
- 1.30 **Pre-Construction Survey:** means all work or operations required by Applicable Standards and/or CITY to determine the potential Make-Ready Work necessary to accommodate Licensee's Communications Facilities on a Pole. Such work includes, but is not limited to, field inspection and cost estimating. The Pre-Construction Survey may include Licensee if required by CITY.
- 1.31 **Reserved Capacity:** means Capacity or space on a Pole that CITY has identified and reserved for its own requirements, including internal communications capabilities, pursuant to a reasonable projected need or business plan.
- 1.32 **Service Wires:** means non-guyed wires, not supported by strand, that do not require guying by common design standards, and including the last span that is installed to provide service to an individual customer(s). Subject to Section 6.1, Licensee's Service Wires installed on CITY Poles are considered as Attachments as defined in Section 1.6 of this Agreement and are to be installed in accordance with all Applicable Standards, and all other provisions of this Agreement, including Attachment Fees.
- 1.33 **Tag:** means to place distinct markers on wires and cables or by a means as specified by applicable federal, state or local regulations that will readily identify the owner, as provided in Article 4 and applicable Appendices.
- 1.34 **Telecommunications Services:** means the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the technology by which offered. Telecommunications means the transmission, between or among points specified by the user, of information of the user's choosing without change in the form or content of the information as sent and received. Telecommunications Service(s) does not include Cable Services as defined herein.
- 1.35 **Unauthorized Attachment:** means any Attachment of Licensee's Facilities to CITY Poles for which Licensee has not obtained an Attachment Permit in accordance with Section 6 of this Agreement.
- 1.36 **Unauthorized Attachment Charge:** means the charge payable by Licensee under this Agreement for Unauthorized Attachments.

2. SCOPE OF AGREEMENT

- 2.1 **Grant of License.** Subject to the provisions of this Agreement and to the extent lawful, CITY hereby grants Licensee a revocable, nonexclusive license authorizing Licensee to install and maintain Permitted Attachments to CITY Poles, including Joint-Use Poles. Attachments to or rights to occupy CITY Facilities not covered by this Agreement must be separately negotiated.
- 2.2 **Parties Bound by Agreement.** Licensee and CITY agree to be bound by all provisions of this Agreement.

- 2.3 Permit Issuance Conditions. CITY will issue a Permit(s) to Licensee only when CITY determines, in its sole judgment, exercised reasonably, that (i) CITY has sufficient Capacity to accommodate the requested Attachment(s), (ii) Licensee meets all requirements set forth in this Agreement, and (iii) such Permit(s) comply with all Applicable Standards.
- 2.4 Reserved Capacity. Licensee's existing and future Attachments are in spaces on CITY's Poles that are reserved for CITY's future use in accordance with the "CITY's Distribution System Development Plan" set forth in "Appendix L". Access to CITY's Reserved Capacity in Assigned Space on CITY Poles will be made available to Licensee with the understanding that CITY may eliminate or limit the number of Permitted Attachments in accordance with CITY's rights, reserved under this Agreement. On giving Licensee at least sixty (60) calendar days prior notice, CITY may reclaim the Reserved Capacity anytime if required for CITY's future use, including the attachment of communications lines for internal CITY or governmental communications requirements or any energy related service involving the transfer or receipt of information or data concerning the use, measurement, monitoring, or management of energy utility services, including services such as load management or automated meter reading. CITY shall give Licensee the option to remove its Attachment(s) from the affected Pole(s) or to pay for the cost of any Make-Ready Work needed to expand Capacity so that Licensee can maintain its Attachment(s) on the affected Pole(s). The allocation of the cost of any such Make-Ready Work (including the transfer, rearrangement, or relocation of third party Attachments) shall be determined in accordance with Article 9. Notwithstanding the above, if CITY reclaims Reserved Capacity for which Licensee has received a Permit and paid CITY for Make-Ready Work but the installation of Licensee's Attachments is not complete, CITY shall refund all payments from Licensee for Application Fees and Make-Ready Work.
- 2.5 No Interest in Property. No use, however lengthy, of any CITY Facilities, and no payment of any fees or charges required under this Agreement, shall create or vest in Licensee any easement or other ownership or property right of any nature in any portion of such CITY Facilities. Neither this Agreement, nor any Permit granted under this Agreement, shall constitute an assignment to Licensee of any of CITY's rights to CITY Facilities. Notwithstanding anything in this Agreement to the contrary, Licensee shall, at all times, be and remain a licensee only.
- 2.6 Non-Exclusivity. CITY previously may have granted rights or privileges to use CITY Poles to others not parties to this Agreement, including rights or privileges to use Poles covered by this Agreement. CITY retains the right to continue and to amend such licenses or privileges and to grant rights and privileges to others after the execution of this Agreement. The rights granted to Licensee under this Agreement are subject at all times to CITY's right to its Poles and to the rights and privileges which CITY has granted or grants in the future to others. Notwithstanding anything to the contrary in this Agreement, Licensee shall be treated in a non-discriminatory manner.
- 2.7 Licensee's Right to Attach. Unless otherwise expressly provided for in this Agreement, other than a Permit issued pursuant to Article 6, nothing shall be construed as granting Licensee any right to attach Licensee's Communications Facilities to any specific Pole.
- 2.8 Franchise. Prior to applying for an Attachment Permit under this Agreement, Licensee must obtain and provide appropriate copy to the CITY of (a) either (i) a franchise or other authority

by ordinance authorizing Licensee to erect and maintain Licensee's Facilities within the public streets, highways, alleys, utility easements, and other public thoroughfares directly from the governing authority or (ii) a certificate of franchise authority certificate issued by the Arkansas Secretary of State pursuant to the Arkansas Video Service Act, *Ark. Code Ann. §§ 23-19-201 et seq.*; and (b) any other necessary permits, authority, and consents from federal, state, municipal or other public authorities.

- 2.9 CITY's Rights over Poles. The Parties agree that this Agreement does not in any way limit CITY's lawful right to locate, operate, maintain, and remove its Poles in the manner that will best enable it to fulfill its service requirements.
- 2.10 Restrictions on Certain Poles. CITY may deny access to Poles in flood zones, river crossings or other locations where new Attachments cannot be accommodated without creating a potential to disrupt or impair CITY Facilities or endanger safety. In such instances CITY, in its sole discretion, may erect taller/larger Poles to accommodate Licensee's Attachments if the costs of such replacement Poles are approved and paid by Licensee in advance. Further, CITY may deny access or require the removal or modification, at Licensee's expense, of existing Attachments if it reasonably determines that Licensee's Facilities have insufficient clearance, or may create a potential to disrupt or impair CITY Facilities or endanger safety standards.
- 2.11 Expansion of Capacity. CITY will take reasonable steps to expand Pole system Capacity, at Licensee's expense, when necessary to accommodate Licensee's request for Attachment, and when consistent with City land use requirements of general applicability. Notwithstanding the foregoing sentence, nothing in this Agreement shall be construed to require CITY to install, retain, extend, or maintain any Pole system for use when such Pole system is not needed for CITY's service requirements.
- 2.12 Permitted Uses. This Agreement is limited to the uses specifically stated in the Agreement, and no other use shall be allowed without CITY's express written consent to such use. Nothing in this Agreement shall be construed to require CITY to allow Licensee to use CITY's Poles after the termination of this Agreement.
- 2.13 Excluded Poles. Except as expressly consented to in writing, Licensee shall not make Attachments to any Poles used to support voltages in excess of 35kV and those Poles used exclusively for lighting. All Attachments approved and made will comply with all applicable industry standards and approved attachment methods, including drilling requirements for non-wood Poles, as prescribed by CITY within the written consent.

3. FEES AND CHARGES

- 3.1 Payment of Fees and Charges. Licensee shall pay to CITY the applicable fees and charges specified in Appendix I and shall comply with the terms and conditions specified herein. As set out in Appendix I, each Attachment shall be billed at the single Pole Attachment rate as specified on Appendix I and which shall apply to all services, whether Cable Services, Telecommunications Services, or other Communications Services.
- 3.2 Payment Period. Fees shall be calculated and payable for the entire calendar year during which Licensee holds a Permit for such Attachment.

- 3.3 **Billing.** CITY shall invoice Licensee annually. CITY will submit to Licensee an invoice for the annual rental period no later than January 31st of each year and payment shall be due and payable within 45 days of the invoice date. The invoice shall set forth the total number of Attachments for which Licensee was issued and/or holds a Permit(s) for Attachments as of December 31st of the previous rental year. If Licensee makes Attachments at any time after the December 31st calculation date, Licensee shall pay the full annual Attachment Fee for the additional Attachments at the next calculation date, as well as for existing Attachments, as follows: At each December 31st, CITY shall calculate the additional Attachments from the prior December 31st, and Licensee agrees to pay the full annual Attachment Fee for both the previous year and the upcoming year for such additional Attachments. For example, if Licensee has no Attachments for which an Attachment Fee is due on December 31, 2013, and has 20 such Attachments on December 31, 2014, the payment due in January of 2015 is equal to 40 times the Attachment Fee in effect (20 Attachment Fees for 2014, 20 Attachment Fees payable in advance for 2015). If Licensee has 100 Attachments on December 31, 2013, and 200 Attachments on December 31, 2014, the payment due in January of 2015 is equal to 300 times the current Attachment Fee (100 additional Attachment Fees for 2014, 200 Attachment Fees payable in advance for 2015). There is no pro rata or reduction of the Attachment Fee due to the fact that the Attachment was in place for only part of the year.

Notwithstanding the preceding paragraph of this Section 3.3, Licensee acknowledges and agrees that CITY will promptly invoice Licensee for Licensee's calendar year 2016 Attachment Fees following the Effective Date of this Agreement. Licensee agrees to pay that invoice within forty-five (45) days of its receipt thereof.

- 3.4 **Refunds.** No fees and charges specified in Appendix I shall be refunded on account of any surrender of a Permit granted hereunder. There is no pro rata refund of Attachment Fees if CITY or Licensee abandons a Pole.
- 3.5 **Late Charge.** If CITY does not receive payment for any Attachment Fee or other amount owed within thirty (30) calendar days after it becomes due, Licensee, upon receipt of fifteen (15) calendar days' prior written notice, shall pay interest to CITY equivalent to the lesser of One Percent (1%) per month or the maximum interest rate permitted by Arkansas law on the amount due from the original due date of the invoice.
- 3.6 **Application Fees.** Each application for an Attachment Permit must be accompanied by an Application Fee to compensate CITY for administrative and other work required, as described below in subsections (i) and (ii), to process the application, perform the Pre- Construction Survey, In-Progress Inspection, and the initial Post-Construction Inspection. The Application Fee is set forth in Appendix I to this Agreement and may be amended in accordance with the terms of this Agreement.
- 3.6.1 Application for Permit with applicable administrative fee submitted; and
 - 3.6.2 Applicable per pole fee for each Pole submitted on Appendix B to offset the actual costs of Pre-Construction Survey including pole loading analysis, In-Progress Inspection, and all required Post-Construction Inspections.
- 3.7 **Payment for Make-Ready Work.** Licensee will be responsible for payment to CITY for all Make-Ready Work required to accommodate Licensee's Communications Facilities and

shall acknowledge its agreement to make payment by executing the CITY-provided Appendix C that shall contain CITY's cost for each specific Permit requiring Make-Ready Work.

- 3.8 Payment. CITY will bill Licensee monthly for all reasonable costs, including, but not limited to, administrative, construction, inspections, and Make-Ready Work expenses, in connection with the initial installation or rearrangement of Licensee's Communications Facilities pursuant to the procedures set forth in Articles 6 and 7.
- 3.9 Determination of Charges. Wherever this Agreement requires Licensee to pay for work done or contracted by CITY, the charge for such work shall include all reasonable material, labor, engineering and administrative costs, and applicable overhead costs. Such costs will be determined in accordance with CITY's cost accounting systems used for recording capital and expense activities. If Licensee was required to perform work and fails to perform such work, CITY shall notify Licensee of the deficiency in writing and shall give Licensee thirty (30) days to correct the deficiency. If Licensee fails to perform the work, necessitating its completion by CITY, CITY may either charge an additional ten percent (10%) to its costs or assess the charges specified in Appendix I.
- 3.10 Work Performed by CITY. Wherever this Agreement requires CITY to perform any work, Licensee acknowledges and agrees that CITY, at its sole discretion, may utilize its employees, contractors, or agents, or any combination thereof, to perform such work.
- 3.11 Default for Nonpayment. Nonpayment of an undisputed amount due under this Agreement beyond ninety (90) days shall constitute a material default of this Agreement upon an additional thirty (30) days written notice being provided to Licensee. If Licensee disputes any amount claimed owed, Licensee shall pay the undisputed portion and shall provide a detailed explanation of the basis for its dispute.

4. SPECIFICATIONS

- 4.1 Installation/Maintenance of Communications Facilities. When a Permit is issued pursuant to this Agreement, Licensee's Communications Facilities shall be installed and maintained in accordance with the requirements of this Agreement, including the appropriate Appendices, and all Applicable Standards. Licensee shall, at its own expense, make and maintain its Attachments in safe condition and good repair in accordance with all Applicable Standards. Notwithstanding anything in this Agreement to the contrary, Licensee shall in no event be required to modify or upgrade its Attachments if not required to do so either by any generally applicable code, like the NESC or NEC, or other applicable government requirement. Further, Licensee shall not be required to modify or upgrade any pre-existing Attachment, made to a Pole prior to the Effective Date of this Agreement, provided that such Attachment is in safe condition and good repair, in accordance with all Applicable Standards which were in effect at the time when that Attachment was initially made or subsequently modified by Licensee.
- 4.2 Tagging. Licensee and any Overlapping third party shall Tag all mainline Communications Facilities, installed subsequent to the execution of this Agreement as specified in Appendix K and/or applicable federal, state and local regulations in effect upon installation of Licensee's Facilities; prior untagged Attachments of Licensee shall be Tagged within one

year of the execution of this Agreement. Failure to provide proper Tagging will be considered a violation of the Applicable Standards. Notwithstanding the foregoing, Licensee shall in no event be required to Tag Service Wires.

- 4.3 Interference. Licensee shall not allow its Communications Facilities to impair the ability of CITY, Joint-Pole Users, or any third party to use CITY's Poles, nor shall Licensee allow its Communications Facilities to interfere with the operation of any CITY Facilities. Licensee shall not be responsible for interference with future installations by Joint-Pole Users or third parties, provided that Licensee's Attachments comply with all Applicable Standards and are Permitted Attachments.
- 4.4 Protective Equipment. Licensee, and its employees and contractors, shall utilize and install adequate protective equipment to ensure the safety of people and facilities. Licensee shall install, at its own expense, protective devices designed to handle the voltage and current impressed on its Communications Facilities in the event of a contact with the supply conductor. CITY shall not be liable for any actual or consequential damages to Licensee's Communications Facilities or Licensee's customers' facilities or to any other property, or for any death or personal injuries whatsoever, except to the limited extent provided in Article 16.
- 4.5 Overlapping. The following provisions will apply to Overlapping:
- 4.5.1 Any person, including Licensee, seeking to Overlap Licensee's existing Attachments shall first obtain a Permit pursuant to Article 6 and Appendix A for each such Overlap. Absent such authorization, Overlapping constitutes an Unauthorized Attachment and is subject to the Unauthorized Attachment Charge specified in Appendix I. Where such Overlapping by Licensee is to provide for "competitive service requirements", and where Licensee did not have reasonable advance knowledge of the potential for such "competitive service requirements", CITY will make all reasonable efforts to respond to the Application within fifteen (15) business days, including providing Licensee with estimates of CITY Make-Ready Work requirements. CITY shall, at the completion of the Pre-Construction Survey, notify Licensee that it may proceed with Overlapping if such can be performed in compliance with the Applicable Standards. CITY may schedule Make-Ready Work for Licensee upon receipt of acknowledgment that Licensee shall be responsible for all costs, including, but not limited to, appropriate overtime and other related costs incurred by CITY. CITY shall not withhold Permits if such Overlapping can be accomplished consistent with Article 2, Section 2.3 and Articles 4 and 6 of this Agreement.
- 4.5.2 If Overlapping is required to accommodate facilities of a third party that is not Affiliated with Licensee, such third party must enter into a License Agreement with CITY and obtain Permits. CITY shall not grant Permits to third parties authorizing Overlapping of Licensee's Communications Facilities unless Licensee has first consented in writing to such Overlapping. Nothing in this Agreement shall prevent Licensee from seeking a contribution from an Overlapping third party to defray fees and charges paid by Licensee.

- 4.5.3 Licensee or Overlashing third party shall be responsible for all Make-Ready Work and other charges associated with accommodating the Overlashing, as evidenced on Appendix C, but shall not be required to pay a separate annual Attachment Fee for such Overlashed Attachment.
- 4.5.4 Make-Ready Work procedures set forth in Article 7 shall apply, as necessary, to all Overlashing.
- 4.6 Enclosures. Licensee shall not place Pedestals, Vaults and/or other ground-mounted facilities, or below-ground Enclosures, on or within five (5) feet of any Pole or other CITY Facilities without CITY's prior written permission. If permission is granted, all such installations shall be per the Specifications found in applicable Appendices of this Agreement and subject to the charges as provided in Appendix I. Such permission shall not be unreasonably withheld.
- 4.7 Emergency and Imminent Danger Violations. In the event a violation of this Agreement (including, without limitation, a violation of any of the Applicable Standards) that poses an imminent danger to persons or property is discovered, Licensee shall correct such violation immediately. Should Licensee fail to correct such violation after notification (either written or verbal), or when CITY believes that such violation(s) pose an immediate threat to the safety of any person, interfere with the performance of CITY's service obligations, or pose an immediate threat to the physical integrity of CITY Facilities, or any property, CITY may perform such work and/or take such action as it deems necessary without first giving notice to Licensee. CITY will then bill Licensee for the actual costs incurred for such corrections.
- 4.8 Violation of Specifications. Except as stated in Section 4.7, above, where Licensee's Communications Facilities, or any part thereof, are installed, used, or maintained in violation of this Agreement, CITY shall provide written notice to Licensee (including location and Pole number where available) and Licensee shall either: (a) provide plans of correction to CITY's reasonable satisfaction within fourteen (14) calendar days of Licensee's receipt of the notice of violations; or (b) correct the violation(s) within sixty (60) calendar days from Licensee's receipt of notice of the violation(s) from CITY, so long as such violation was caused by the action(s) or inaction(s) of Licensee and was not caused by CITY, its affiliates, agents, or contractors, or by others attached to CITY's Pole or their affiliates, agents, or contractors. The foregoing notwithstanding, however, the sixty (60) calendar day period in which Licensee is obligated to correct violations shall be tolled during any period of delay caused by CITY or a third party. In case of numerous Licensee violations, Licensee may request additional time to correct the violations and such request will not be unreasonably denied by CITY. If the violations are not corrected within the time specified in this Section 4.8, CITY, at its option, may correct said conditions, including, but not limited to, those specified in Section 4.7. CITY will attempt to notify Licensee in writing prior to performing such work whenever practicable. CITY will advise Licensee of the work performed or the action taken. Licensee shall be responsible for all costs incurred by CITY in taking action pursuant to this Section 4.8. However, in no event shall Licensee be liable for any cost or expense associated with correcting violations caused by CITY, its affiliates or contractors or by others attached to CITY's Pole, except where Licensee has been properly notified under Section 2.4, Reserved Capacity.
- 4.9 Restoration of CITY Service. CITY's service restoration requirements shall take precedence

over any and all work operations of Licensee on CITY's Poles. CITY may relocate, replace, renew or remove Licensee's Facilities, transfer them to substituted Poles or perform any other work in connection with Licensee's Facilities that CITY deems desirable or necessary in the restoration of CITY Service, and CITY shall not be liable to Licensee for any actions CITY takes pursuant to this Section 4.9, except to the limited extent provided in Article 16. Licensee shall reimburse CITY for the costs CITY incurs relating to such work within forty- five (45) days of the date CITY sends Licensee an invoice for such work.

- 4.10 Effect of Failure to Exercise Access Rights. If Licensee does not exercise any access right granted pursuant to this Agreement and/or applicable Permit(s) within ninety (90) calendar days after CITY notifies Licensee that Make-Ready Work is completed, CITY may use the space scheduled for Licensee's Attachment(s), for its own needs, Joint-Pole User's needs, or other Attaching Entities' needs. In such instances, CITY shall endeavor to make other space available to Licensee, upon written application by Licensee for a Permit pursuant to Article 6, as soon as reasonably possible and subject to all requirements of this Agreement, including the Make-Ready Work provisions.
- 4.11 Removal of Nonfunctional Attachments. At its sole expense, Licensee shall remove any Non-Functional Attachments as provided in this Section 4.11. Except as otherwise provided, Licensee shall remove Non-Functional Attachments within one (1) year of the Attachment becoming nonfunctional, unless Licensee receives written notice from CITY that removal is necessary to accommodate CITY's use of the affected Pole(s), pursuant to a reservation of Capacity, in which case Licensee shall remove such Non-Functional Attachments within thirty (30) days of receiving the notice. Where Licensee has received a Permit to Overlash a Non-Functional Attachment, such Non-Functional Attachments shall be removed at the time the Overlashed Communications Facility is no longer used by the Licensee. Licensee shall promptly give CITY notice of any Non-Functional Attachments.
- 4.12 Removal of Abandoned Facilities. Licensee agrees to remove, at Licensee's expense, all property or other facilities which Licensee has placed or in the future places on CITY Poles 4.12.1 which Licensee does not utilize for providing Licensee's services; (2) which Licensee abandons or has abandoned; or (3) which are no longer required by Licensee, due to the operating Capacity of Licensee's Facilities having been replaced by other facilities. Where such removals constitute removal of all Attachments on a CITY's Pole(s), Licensee shall submit Appendix H, Notification of Attachment Removal, to CITY.

5. PRIVATE AND REGULATORY COMPLIANCE

- 5.1 Necessary Authorizations. Licensee shall be responsible for obtaining from the appropriate public and/or private authority or other appropriate persons any required authorization to construct, operate, and/or maintain its Communications Facilities on public and/or private property before it occupies any portion of CITY's Poles, including Joint-Pole Users' Poles. Upon request, Licensee must provide CITY with evidence that appropriate authorization has been obtained before any Permit is issued to Licensee. Licensee's obligations under this Article 5 include, but are not limited to, its obligation to obtain all necessary approvals to occupy public/private rights-of-way and to pay all costs associated therewith, and to maintain such approval for the term of the Permit. Licensee shall defend, indemnify and reimburse CITY for all loss, costs and expense, including reasonable attorney's fees, that

CITY may incur as a result of claims by governmental bodies, owners of private property, or other persons, that Licensee does not have sufficient rights or authority to attach Licensee's Communications Facilities on CITY's Poles.

- 5.2 Lawful Purpose and Use. Licensee's Communications Facilities must at all times serve a lawful purpose, and the use of such Licensee Facilities must comply with all applicable federal, state, and local laws.
- 5.3 Forfeiture of CITY's Rights. No Permit granted under this Agreement shall extend to any Pole on which the attachment of Licensee's Communications Facilities would result in a forfeiture of CITY's rights. Any Permit, which on its face would cover Attachments that would result in forfeiture of CITY's rights, is invalid. Further, if any of Licensee's existing Communications Facilities, whether installed pursuant to a valid Permit or not, would cause such forfeiture, Licensee shall promptly remove Licensee's Facilities upon receipt of written notice from CITY. If Licensee does not remove its Licensee Facilities within thirty (30) calendar days from CITY's issuance of the written notice, CITY will perform such removal at Licensee's expense. If any Attachment by Licensee leads to the termination of the rights of CITY and/or other Attaching Entities to occupy the real property on which CITY Poles are located, Licensee shall use its best efforts to restore CITY and/or other Attaching Entities to their original status before such Attachment was installed and agrees to pay CITY and/or other Attaching Entities for all losses, damages and costs resulting from the Attachment and/or termination.
- 5.4 Effect of Consent to Construction/Maintenance. Consent by CITY to the construction or maintenance of any Attachments by Licensee shall not be deemed consent, authorization, or an acknowledgment that Licensee has the authority to construct or maintain any other such Attachments. It is Licensee's responsibility to obtain all necessary approvals for each Attachment from all appropriate parties or agencies.
- 5.5 Conflicts. If, for or with respect to any Attachment, a difference or conflict in a specification, regulation, or practice exists, with the exception of pre-existing Attachments made prior to the Effective Date of this Agreement, the following rules will apply: (a) if one specification, regulation, or practice is more stringent than the other, the more stringent will apply; (b) if one of the conflicting specifications, regulations, or practices is not more stringent than the other, the specification, regulation, or practice of the National Electrical Safety Code will apply; (c) if the conflict cannot be resolved under the first two rules, CITY will determine in good faith which specification, regulation, or practice shall apply, with safety concerns given the highest priority in such determination.

6. PERMIT APPLICATION PROCEDURES

- 6.1 Permit Required. Licensee shall not install any Attachments on any CITY Pole without first submitting an Appendix B, Application to Attach, and obtaining a Permit pursuant to the applicable requirements of Appendix A. An installation plan as described in Appendix B will accompany each Application To Attach. Unless otherwise notified, CITY shall be presumed by Licensee to be the Joint-Use Pole Custodian for all CITY Joint-Use Poles. Pre-existing Attachment(s) of Licensee prior to January 2015 shall be grandfathered with respect to Permitting but shall be subject to the Attachment Fees and correction of any code violations whether known or unknown as of January 2015.

- 6.1.1 Notwithstanding the requirements of Section 6.1, Licensee may attach Service Wires to any Pole without first submitting an application for Permit requesting such Attachment; provided, however, that Licensee shall submit Appendix B, Part 3, Record of Service Wire Attachments as set forth in Appendix A. Service Wires are considered as Attachments as defined in Section 1.6 of this Agreement and are subject to all Applicable Standards and Attachment Fees. Records of Service Wire Attachments submitted are not subject to either component of the Application Fee.
- 6.2 CITY Review of Application to Attach. Upon receipt of a properly executed Application To Attach, an installation plan including the necessary information for pole loading analysis, and the Application Fee, CITY, or its contractor or agent, will perform the Pre-Construction Survey. CITY will notify Licensee within forty-five (45) days of receipt of the Application To Attach whether access is granted or denied. In the case of an Application to Attach solely involving Overlashing where no Make-Ready Work is required and the Overlashing will be in compliance with the Applicable Standards, CITY will notify Licensee within fourteen (14) days of receipt of the Application to Attach whether access is granted or denied. In the event CITY fails to respond to an Application within the applicable timeframe, Licensee may give written notification of such failure to CITY, which if not responded to with seven (7) days after receipt shall then constitute an approval. If Licensee's Application is deemed approved under the default provisions of this Section 6.2, Licensee shall nonetheless be bound by the requirements of this Agreement, including the appropriate Appendices, and all Applicable Standards. Before Licensee attaches its Communications Facilities, CITY will discuss any issues with Licensee, including engineering or Make-Ready Work requirements associated with the Permit.
- 6.2.1 In making its decision as to whether to issue a Permit, CITY may consider engineering, safety and Capacity constraints, including Reserved Capacity. In addition, CITY may consider and deny such Permit based upon the aesthetic impact of the proposed Attachment to the extent that they would be inconsistent with City requirements on aesthetics.
- 6.2.2 CITY acceptance of the submitted design documents does not relieve the Licensee of full responsibility for any errors and/or omissions in those design documents.
- 6.3 Permits for Overlashing As set out in Article 4, Section 4.5, Permits are required for all Overlashings allowed under this Agreement, and Licensee, Licensee's Affiliate or third party, as applicable, shall pay any necessary engineering and Make-Ready Work costs to accommodate such Overlashing.
- 6.4 Performance of Make-Ready Work. If Make-Ready Work is required to accommodate Licensee's Attachments, CITY or its contractors shall perform such work pursuant to Article 7.
- 6.5 Permit as Authorization to Attach. After receipt of all payment for any necessary Make-Ready Work, CITY will sign and return the Appendix C, which shall serve as authorization for Licensee to make its Attachment(s) upon completion of all Make-Ready Work required to accommodate Licensee's Attachment(s).

- 6.6 Post-Construction Inspection. Licensee shall, within thirty (30) days of completion of all work, notify CITY, or its agent, in writing that work is complete. CITY, or its agent, may, in the CITY's discretion, perform the initial Post-Construction Inspection to ensure that Licensee's Communications Facilities were installed on the identified Poles in compliance with the Applicable Standards, in accordance with Article 4 and the Permit, within thirty (30) days of notification by Licensee in writing that work is complete. Where non-compliant Licensee work or Attachments are found during the initial Post-Construction Inspection, subsequent follow-up inspection(s) by CITY, or its agent, as required to ensure compliance with the Applicable Standards, will be performed. Licensee will be invoiced for all costs incurred by CITY, or its agent, in performing the follow-up inspections, including costs incurred resulting from additional trips where Licensee has incorrectly reported corrections to non-compliant Licensee Facilities. In no event shall Licensee be liable for the costs of any subsequent follow-up inspections that do not occur within forty-five (45) days of Licensee's written notification that its work is complete, unless CITY is delayed in performing such follow up inspection due to a Force Majeure Event as provided for in Section 15.

7. MAKE-READY WORK/INSTALLATION

- 7.1 Make-Ready Work. In the event CITY determines that it can accommodate Licensee's request for Attachment(s), including Overlashing of an existing Attachment, it will advise Licensee by issuance of an Authorization for Make-Ready Work, set forth as Appendix C, including any Make-Ready Work charges necessary to accommodate the Attachment. Whenever CITY provides Make-Ready Work estimates for Licensee, CITY will incorporate the rearrangement costs of Joint-Pole Users and other Attaching Entities, where such costs are known, and will require advance payment from Licensee for those costs. In no event shall Licensee be responsible for any Make-Ready Work charges necessary to correct pre-existing non-compliant conditions that Licensee did not cause. As a part of the Make-Ready Work process, CITY will request Joint-Pole Users and other Attaching Entities to adjust their facilities to accommodate Licensee's Attachments within thirty (30) days of CITY's request. Where such work is paid in advance by Licensee, CITY shall reimburse the Joint-Pole User or other Attaching Entities. In the event after CITY's commercially reasonable efforts, the Joint-Pole User or other Attaching Entity fails to accommodate CITY's request on behalf of Licensee, CITY shall perform Make-Ready Work to accommodate Licensee's request. In the event the Joint-Pole User or Attaching Entity accommodates CITY's request on behalf of Licensee, CITY shall reimburse the Joint-Pole User or other Attaching Entity. CITY shall not, however, perform Make-Ready Work on Joint-Pole User or third party Attaching Entity risers, splices, dead-ends, or fiber, and shall reimburse Licensee for any such Make-Ready Work charges paid to CITY.
- 7.2 Denial of Licensee's Attachments. In the event of a CITY denial of Licensee's proposed Attachment, CITY shall apply the denial in a nondiscriminatory manner where there is insufficient Capacity or for reasons of safety, reliability, aesthetics, and generally applicable engineering purposes.
- 7.3 Scheduling of Make-Ready Work. Make-Ready Work shall be completed in a timely manner and at a reasonable cost and as soon as practical after the date payment is received. In performing all Make-Ready Work to accommodate Licensee's Communications Facilities,

CITY will endeavor to include such work in its normal work schedule. Upon payment of estimated Make-Ready Work costs, the City will employ its commercially reasonable efforts to complete Make-ready Work within 45 days. Where the CITY reasonably determines that the requested or necessary Make-Ready Work will require more than 45 days to complete, CITY and Licensee shall work in good faith to negotiate other mutually satisfactory conditions and an adjusted timeframe to complete the Make-Ready Work. In the event Licensee requests that the Make-Ready Work be performed on a priority basis or outside of CITY's normal work hours, Licensee agrees to pay any resulting increased costs, plus any additional administration costs that result from such request. Nothing herein shall be construed to give precedence to Licensee's work over the scheduled work or CITY service restoration.

- 7.4 Who May Perform Make-Ready Work. Make-Ready Work shall be performed only by CITY and/or a contractor authorized by CITY to perform such work. If CITY cannot perform the Make-Ready Work to accommodate Licensee's schedule requirements, and after Licensee's payment of estimated Make-Ready Work costs, Licensee may seek permission from CITY for Licensee to employ an authorized, qualified contractor to perform such work.

7.5 Licensee's Installation/Removal/Maintenance Work.

- 7.5.1 All of Licensee's installation, removal and maintenance work, pertaining to or otherwise impacting its Attachments or any Poles, shall be performed at Licensee's sole cost and expense, in a good and workmanlike manner, and must not adversely affect the structural integrity of CITY's Poles, or other CITY Facilities or any Joint-Use Pole, or CITY's or Other Licensees' facilities or equipment attached thereto. All such work is subject to the insurance requirements of Article 18.
- 7.5.2 All of Licensee's installation, removal and maintenance work performed on CITY's Poles in the vicinity of other CITY Facilities, either by its employees or contractors, shall be in compliance with all Applicable Standards specified in Article 4. Licensee shall assure that any person installing, maintaining, or removing Licensee's Facilities is fully qualified and familiar with all Applicable Standards, the provisions of Article 17, and the Design Specifications contained in Appendix D and Appendix E.

8 . TRANSFERS

- 8.1 Required Transfers of Licensee's Communications Facilities. If CITY or a Joint-Pole User that is currently reserving space occupied by Licensee's Attachments, reasonably determines that a transfer of Licensee's Facilities is necessary, Licensee agrees to perform such transfer at its own expense, unless the transfer is requested by another Attaching Entity. If Licensee fails to transfer on the date specified after receiving written notice from CITY that the pole is ready for Licensee to perform such transfer (including, without limitation, notice by means of the National Joint Utilities Notification System ("NJUNS")), Licensee shall be responsible for the costs incurred by CITY for the return trip to the job site to remove the old Pole. Further, unless such time is extended, if Licensee fails to transfer its Facilities within sixty (60) calendar days after receiving such written notice from CITY, CITY shall have the right to transfer Licensee's Facilities using its personnel and/or contractors at Licensee's expense plus the charge specified in Appendix I. CITY shall not be liable for damage to Licensee's Facilities, except as provided in Article 16. Unless such time is

extended, if Licensee fails to transfer its Facilities within sixty (60) calendar days after receiving such written notice from City, then the Licensee shall pay to CITY the sum of one dollar (\$1.00) per day, for each Pole from which the Licensee has failed to transfer its Facilities, until such time as the Licensee completes the requested transfer of its Facilities. Licensee may request additional time to complete the transfer in unusual cases and such request will not be unreasonably denied. The sixty (60) day timeframe provided in this Section 8.1 for Licensee to take action with respect to its Facilities as requested by CITY, shall be extended as may be reasonably necessary in the event that delay in such action is attributable to a third party, including other Attaching Entities or Joint-Pole Users. The written advance notification requirement of this Section shall not apply to emergency situations, in which case CITY shall provide such advance notice as is practical given the urgency of the particular situation. CITY then shall provide written notice of any such actions taken within ten (10) days of the occurrence. Irrespective of who owns them, Licensee is responsible for the transfer of facilities that are Overlashed onto Licensee's Attachments.

- 8.2 Billing for Transfers Performed by CITY. If CITY performs the transfer(s), CITY will bill Licensee for costs per Article 3, Section 3.9. Licensee shall reimburse CITY within forty- five (45) calendar days of the receipt of the invoice.

9. POLE MODIFICATIONS AND/OR REPLACEMENTS

- 9.1 Licensee's Action Requiring Modification/Replacement. In the event that any Pole to which Licensee desires to make Attachment(s) is unable to support or accommodate additional facilities in accordance with all Applicable Standards, including flood zone requirements, CITY will notify Licensee of its approval or denial of such proposed Attachment and if approved, the necessary Make-Ready Work, and associated costs, to provide an adequate Pole, including, but not limited to, replacement of the Pole and rearrangement or transfer of CITY's Facilities. Whenever CITY provides Make-Ready Work estimates for Licensee, CITY will attempt to incorporate the rearrangement costs of Joint-Pole Users and other Attaching Entities, where such costs are known, and will require advance payment from Licensee for those costs. In no event shall Licensee be responsible for any Make-Ready Work charges necessary to correct pre-existing non-compliant conditions that Licensee did not cause. As a part of the Make-Ready Work process, CITY will request Joint-Pole Users and other Attaching Entities to adjust their facilities to accommodate Licensee's Attachments within 30 days of CITY's request. Where such work is paid in advance by Licensee, CITY shall reimburse the Joint-Pole User or other Attaching Entities. In the event that after CITY's commercially reasonable efforts, the Joint-Pole User or other Attaching Entity fails to accommodate CITY's request on behalf of Licensee, CITY shall perform Make-Ready Work to accommodate Licensee's request. In the event the Joint-Pole User or Attaching Entity accommodates CITY's request on behalf of Licensee, CITY shall reimburse the Joint-Pole User or other Attaching Entity. CITY shall not, however, perform Make-Ready Work on Joint-Pole User or third party Attaching Entity risers, splices, dead- ends, or fiber, and shall reimburse Licensee for any such Make-Ready Work charges paid to CITY. In the event of a CITY denial of Licensee's proposed Attachment, CITY shall apply the denial in a nondiscriminatory manner where there is insufficient Capacity or for reasons of safety, reliability, and generally applicable engineering purposes.

- 9.1.1 REPLACEMENT OF EXISTING LICENSEE ATTACHED POLES. Where an existing Licensee attached Pole is replaced for reasons other than maintenance by a new one, the cost shall be divided as specified below. The replaced Pole shall be removed and retained by the City.
- 9.1.2 A Pole satisfactory for the CITY's needs which can also accommodate the facilities of the Licensee shall be erected at the sole expense of the CITY. If without giving such advance notice, the Licensee places one or more Attachments on a Pole and thereby creates a violation of the Applicable Standards, or otherwise renders the Pole unsuitable for joint use, or interferes with or causes violations of the Applicable Standards, for the other attachers to the Pole, then the Licensee must pay the full cost of removing and replacing the Pole with a Pole of sufficient size to remedy the violation or render the Pole suitable for joint use, plus the cost of all transfers and other work incident thereto.
- 9.1.3 A Pole larger than the existing Pole, which is installed to replace an existing Pole, the extra height or strength of which is due wholly to the CITY's requirements and requirements as to keeping the CITY's wires clear of trees shall be erected at the sole expense of the CITY. The CITY shall bear the full expense of replacing or transferring all the CITY's Attachments and the Licensee shall bear the full expense of replacing or transferring all the Licensee's Attachments.
- 9.1.4 In the case of a Pole larger than the existing Pole, the extra height or strength of which is due wholly to the Licensee's requirements including Licensee's requirements as to keeping the Licensee's wires clear of trees, the Licensee shall pay to the CITY the Make-Ready Work cost of the new Pole.
- 9.1.5 Except as to existing contracts, in the case of a Pole larger than the existing Pole, which is installed to replace an existing Pole, the extra height or strength of which is due to the requirements of both Parties for additional space or the requirements for proper ground clearance or of public authorities or of property owners (other than requirements with regard to keeping the wires of one Party only clear of trees), the difference between the cost in place of such Pole and the cost in place of the existing Pole shall be shared equally by the Licensee and the CITY, the rest of the cost of erecting such Pole to be borne by the CITY. The CITY and Licensee shall replace or transfer all Attachments at their own expense.
- 9.1.6 For purposes of this Article, any Pole on which the Licensee has placed or places an Attachment shall be deemed satisfactory to the Licensee whether or not the terms of this Agreement have been satisfied.
- 9.1.7 RESPONSIBILITY FOR OWN ATTACHMENTS. Each Party shall place, maintain, rearrange, transfer and remove its own Attachments at its own expense except as otherwise expressly provided herein.
- 9.2 Treatment of Multiple Requests for Same Pole. If CITY receives Permit applications for the same Pole from two or more prospective licensees within sixty (60) calendar days of the initial request, and accommodating their respective requests would require modification or replacement of the Pole, CITY will allocate among such licensees the applicable costs associated with such modification or replacement. Such allocation applies only to those

Attachments involving cable/wire and not risers and/or other equipment.

- 9.3 Guying. The use of guying to accommodate Licensee's Attachments shall be provided by and at the expense of Licensee and to the satisfaction of CITY as specified in appropriate Appendices. On a going-forward basis, Licensee shall not attach its guy wires to CITY's anchors without prior written permission of CITY. If permission is granted, Make-Ready Work costs may apply. All appropriate anchors and guys shall be installed and appropriately tensioned by Licensee prior to placing cables and tensioning support messengers.
- 9.4 Allocation of Costs. The costs for any rearrangement or transfer of Licensee's Communications Facilities or the replacement of a Pole, including any related costs for tree-cutting or trimming required to clear the new location of CITY's cables or wires, shall be allocated to CITY and/or Licensee and/or other Attaching Entity, including Joint-Pole Users, on the following basis:
- 9.4.1 If CITY intends to modify or replace a Pole solely for its own requirements and not for aesthetic purposes under Section 9.6, it shall be responsible for the costs related to the modification/replacement of the Pole except as provided for in Section 2.4 - Reserved Capacity and Appendix L. Licensee shall be responsible for the rearrangement or transfer of Licensee's Communications Facilities within the timeframe specified by CITY except when the rearrangement or transfer of Licensee's Communications Facilities is required for a CITY competitive service other than energy related services as described in Section 2.4. Prior to making any such modification or replacement, CITY shall provide Licensee written notification of its intent to allow Licensee a reasonable opportunity to elect to modify or add to its existing Attachment. Should Licensee so elect, it must seek CITY's written permission per this Agreement. The notification requirement of this subsection 9.4.1 shall not apply to routine maintenance or emergency situations. If Licensee elects to add to or modify its Communications Facilities, Licensee shall bear the total incremental costs incurred by CITY in making the space on the Poles accessible to Licensee.
- 9.4.2 If the modification or the replacement of a Pole is the result of an additional Attachment or the modification of an existing Attachment sought by an Attaching Entity, the Attaching Entity requesting the additional or modified Attachment shall bear the entire cost of the modification or Pole replacement, as well as the costs for rearranging or transferring Licensee's Communications Facilities. This provision will not apply to modifications or replacements at the request of: a) CITY, except when the rearrangement or transfer of Licensee's Communications Facilities is required for a CITY competitive service other than energy related services as described in Section 2.4 or, b) an existing Joint-Pole User that is currently reserving space occupied by Licensee's Attachments. Licensee shall cooperate with such third party Attaching Entity to determine the costs of moving Licensee's Facilities.
- 9.5 CITY Not Required to Relocate. No provision of this Agreement shall be construed to require CITY to relocate its Attachments or modify/replace its Poles for the benefit of Licensee, provided, however, that any denial by CITY for modification of the Pole is applied in a nondiscriminatory manner.

- 9.6 Aesthetics. Consistent with the franchise agreement, Licensee will be required to bear all expenses associated with the relocation, re-routing, abandonment or upgrading of Licensee's Facilities required by a decision of CITY or any other governmental body having jurisdiction over the matter to beautify and/or improve the aesthetics of a given location in which CITY Poles may be located.

10. ABANDONMENT OR REMOVAL OF CITY FACILITIES

- 10.1 Notice of Abandonment or Removal of CITY Facilities. If CITY desires at any time to abandon, remove or relocate underground any CITY Facilities to which Licensee's Communications Facilities are attached, it shall give Licensee notice in writing (including, without limitation, by means of (NJUNS) to that effect at least sixty (60) calendar days prior to the date on which it intends to abandon, remove, or relocate such CITY Facilities. Notice may be limited to thirty (30) calendar days if CITY is required to remove or abandon its CITY Facilities as the result of the action of a third party and the greater notice period is not practical. Such notice shall indicate whether CITY is offering Licensee an option to purchase the Pole(s). If, following the expiration of the applicable notice period, unless such notice period has been extended, Licensee has not yet removed and/or transferred all of its Communications Facilities and has not entered into an agreement to purchase CITY Facilities pursuant to Section I 0.2 of this Article, CITY shall have the right, subject to any applicable laws and regulations, to have Licensee's Communications Facilities removed and/or transferred from the Pole at Licensee's expense, and subject Licensee to the provisions of Appendix I. CITY shall give Licensee prior written notice of any such removal or transfer of Licensee's Facilities. Further, if, following the expiration of the applicable notice period, unless such notice period has been extended, Licensee has not yet removed and/or transferred all of its Communications Facilities and has not entered into an agreement to purchase CITY Facilities pursuant to Section I 0.2 of this Article, then Licensee shall pay to CITY the sum of one dollar (\$1.00) per day, for each Pole (comprising the subject CITY Facilities) from which Licensee has failed to remove and/or transfer all of its Communications Facilities, until such time as Licensee completes the requested removal and/or transfer of its Communications Facilities. Licensee may request an extension of the applicable notice period in unusual cases and such request will not be unreasonably denied. The applicable notice period provided in this Section I 0. I for Licensee to take action with respect to its Facilities, as requested by CITY, shall be extended as may be reasonably necessary in the event that delay in such action is attributable to a third party, including other Attaching Entities or Joint-Pole Users.
- 10.2 Option to Purchase Abandoned Poles. Should CITY desire to abandon any Pole, CITY, in its sole discretion, may grant Licensee the option of purchasing such Pole at a rate negotiated with CITY. Licensee must notify CITY in writing within thirty (30) calendar days of the date of CITY's notice of abandonment that Licensee desires to purchase the abandoned Pole. Thereafter, Licensee must also secure and deliver proof of all necessary governmental approvals and easements allowing Licensee to independently own and access the Pole within forty-five (45) calendar days. Should Licensee fail to secure the necessary governmental approvals, or should CITY and Licensee fail to enter into an agreement for Licensee to purchase the Pole prior to the end of the forty-five (45) calendar days, Licensee must remove its Attachments as required under Section JO. I of this Article I 0. CITY is under no

obligation to sell Licensee Poles that it intends to remove or abandon. Licensee shall save harmless CITY from all obligation, liability, damages, cost, expenses or charges incurred thereafter, and not arising out of anything theretofore occurring because of or arising out of the presence or condition of such Pole or of any Attachments thereon; and shall pay CITY the then negotiated price of the Pole.

- 10.3 Underground Relocation. If CITY moves its aerial system underground, Licensee shall relocate Licensee's Communications Facilities within sixty (60) calendar days of receipt of notice from CITY or find other means to accommodate Licensee's Facilities. Failure of Licensee to remove Licensee's aerial Facilities upon CJTY's conversion to underground may subject, in CITY's sole discretion, Licensee to the Underground Relocation Charge provisions of Appendix I. If Licensee fails to remove Licensee's Facilities within ninety (90) calendar days of receipt of written notice, CITY shall have the right to remove Licensee's Facilities at Licensee's expense without prior approval of Licensee and without liability to CITY, unless agreed upon otherwise by CITY.

11. REMOVAL OF LICENSEE'S FACILITIES

Removal on Expiration/Termination. At the expiration or other termination of this Pole Attachment License Agreement or any individual Permit(s), unless the parties are in the process of negotiating a new Pole Attachment License Agreement in good faith, Licensee shall remove its Communications Facilities from the affected Poles at its own expense. If Licensee fails to remove such Licensee Facilities within one-hundred eighty (180) calendar days of expiration or termination or some greater period as allowed by CITY, CITY shall have the right to have such Licensee Facilities removed without liability, except as provided in Section 16.

12. TERMINATION OF PERMIT

- 12.1 Automatic Termination of Permit. Any Permit issued pursuant to this Agreement shall automatically terminate when Licensee ceases to have local franchise, other government authority or private property owner permission to construct and operate its Communications Facilities on public or private property, including federal property, at the location of the particular Pole(s) covered by the Permit. Notwithstanding the foregoing, to the extent Licensee is pursuing a challenge of the revocation of any such authority or permission, Licensee shall not be obligated to remove its Attachments and may remain on the particular Pole(s) until such time as all appeals and remedies are exhausted, provided Licensee agrees to indemnify CITY for any actual damages resulting from such revocation of authority or permission.
- 12.2 Surrender of Permit. Licensee may at any time surrender any Permit for Attachment and remove its Communications Facilities from the affected Pole(s). All such work is subject to the insurance requirements of Article 18. Licensee shall notify CITY following such removal with a list of vacated Poles so that CITY can update its billing records. No refund of any fees or costs will be made upon removal. If Licensee surrenders such Permit pursuant to the provisions of this Article, but fails to remove its Attachments from CITY's Facilities within sixty (60) calendar days thereafter, CITY shall have the right to remove Licensee's Attachments at Licensee's expense.

13. INVENTORY AND INSPECTION OF LICENSEE'S FACILITIES

- 13.1 Inspections. After the Effective Date of this Agreement, CITY may perform a safety and/or compliance inspection not more often than once every three years, except where CITY determines, in its reasonable discretion, that systemic or other exceptionally hazardous safety considerations (examples of exceptionally hazardous safety considerations include compromised pole structural integrity and inadequate clearances over roadways) justify the need for an immediate inspection. If such an inspection demonstrates the existence of material Licensee-caused violations, hazards, or conditions concerning Licensee's Attachments to CITY's facilities on more than 5% of the Poles included in a preliminary inspection conducted by CITY, and Licensee was provided sufficient notice to participate throughout, as required by Section 13.3, and such inspection included at least the minimum number of Poles set forth in this subsection, Licensee shall, upon notice by CITY, provide a representative to accompany a CITY representative on a complete inspection of all of Licensee's Facilities attached to CITY's Poles. Licensee's failure to provide a representative shall not delay or nullify the findings of such inspection. The minimum number of Poles to be included in a preliminary inspection, as described in this subsection, shall be 10% of the number of CITY Poles having Licensee's Attachments thereon. If any Attachments inspected are in violation of Article 4, Licensee shall correct all Attachments that it caused to be in non-compliance with Applicable Standards or CITY-approved modifications in accordance with Section 4. If such an inspection demonstrates the existence of violations, hazards or conditions caused by CITY to CITY facilities, CITY shall correct such facilities that it caused to be in non-compliance with Applicable Standards at its own cost. The actual and reasonable costs of any safety and/or compliance inspection shall be pro-rated between CITY and Licensee based on the number of violations found on each Party's facilities. For example, if 90% of all violations were found on Licensee's Facilities, then Licensee would be responsible for 90% of such inspection costs and CITY would be responsible for 10% of such inspection costs. Any revisions to the Applicable Standards shall not be retroactive to existing Attachments, unless required by City, county, state or federal law. However, Licensee shall comply with any new Applicable Standards when Licensee next works on any Licensee Facility which is not in compliance.
- 13.2 Inventory Audit. At intervals of not less than five (5) years and not more often than every three (3) years, CITY may conduct an audit of Licensee's Attachments at Licensee's expense to verify the number of Licensee's Attachments. If CITY's audit is for the purpose of gathering information on multiple licensees, CITY shall apportion the costs and expenses of the audit among all licensees as provided for in their respective agreements. If it is found that Licensee has made an Attachment without a Permit in accordance with Article 6 of this Agreement or Attachments that are being utilized to provide a service beyond which they were Permitted for, Licensee shall pay an Unauthorized Attachment Charge as specified in Appendix I, in addition to applicable Permit charges and Make-Ready Work charges, if any.
- 13.3 Notice. Except for an In-Progress Inspection or a Post-Construction Inspection, CITY will give Licensee one hundred twenty days (120) days advance written notice of such inspections so that Licensee has an opportunity to participate, except in those instances where safety considerations justify the need for such inspection without the delay of waiting until written notice has been received. Before any inspections are performed, CITY shall

notify Licensee and define the scope of the work desired and determine the estimated cost impact upon Licensee.

- 13.4 **No Liability.** The making of any inspections under this Article 13, or the failure to do so, shall not operate to impose upon CITY any liability of any kind whatsoever or relieve Licensee of any responsibility, obligations or liability, whether assumed under this Agreement or otherwise existing.
- 13.5 **Attachment Records.** Notwithstanding the above inspection provisions, on an annual basis no later than December 31st of each year, CITY shall request and Licensee shall provide to CITY an up-to-date strand map depicting the locations of its Attachments in an electronic format specified by CITY. Failure to provide the above information by the due date will result in an automatic and immediate suspension of any and all placement of new or additional Attachments by Licensee to CITY facilities until such time as the information is received by the CITY.

14. UNAUTHORIZED OCCUPANCY OR ACCESS

- 14.1 **Unauthorized Attachments.** If any of Licensee's Attachments are found occupying any Pole for which no Permit has been issued, or any Attachments are found being utilized to provide a service beyond which they were Permitted for, CITY, without prejudice to its other rights or remedies under this Agreement, will send Licensee a written notice, including the Pole number, when posted, and location, of the Unauthorized Attachment(s). If Licensee wishes to dispute CITY's finding of an Unauthorized Attachment, Licensee shall submit evidence or argument of its position to CITY within thirty (30) calendar days after receipt of CITY's notice, and CITY shall determine whether the Attachment in question is an Unauthorized Attachment within 30 days after receipt of Licensee's evidence or argument. Factual disputes shall be resolved pursuant to Article 25. If Licensee does not dispute CITY's finding of an Unauthorized Attachment, Licensee must submit an Application To Attach, the correct Application Fee, and the Unauthorized Attachment Charge (described below) to CITY within thirty (30) calendar days after the date CITY sends Licensee the written notice of the Unauthorized Attachment(s). If such Attachment Fee, Unauthorized Attachment Charge, and associated completed Application To Attach is not received by CITY within thirty (30) calendar days of the date the notice was sent, Licensee must remove Licensee's Facilities which constitute the Unauthorized Attachment(s) within sixty (60) calendar days from the date CITY sent Licensee the written notice of the Unauthorized Attachment(s). If Licensee does not remove Licensee's Facilities, CITY may remove Licensee's Facilities without liability, and Licensee will promptly reimburse CITY for the removal expense.
- 14.2 **Unauthorized Attachment Charge.** CITY, without prejudice to its other rights or remedies under this Agreement, may assess an Unauthorized Attachment Charge as specified in Appendix I. Unauthorized Attachments will be assumed to have been installed by Licensee on the next day following the last inventory conducted by CITY as described in Section 13 or 5 years prior to the date the Attachment is discovered, whichever is shorter. The Unauthorized Attachment Charge is due and payable irrespective of whether a Permit is subsequently issued to Licensee for the Attachment(s).

- 14.3 No Ratification of Unlicensed Use. No act or failure to act by CITY with regard to any unlicensed use by Licensee of a CITY Pole shall be deemed as ratification of the unlicensed use, and if any Permit should be subsequently issued, such Permit shall not operate retroactively or constitute a waiver by CITY of any of its rights or privileges under this Agreement or otherwise; provided, however, that Licensee shall be subject to all liabilities, obligations and responsibilities of this Agreement in regards to said unauthorized use from its inception.
- 14.4 Excessive Unauthorized Attachments. If Licensee is determined by CITY to have made Unauthorized Attachments at more than thirty (30) separate, non-contiguous locations during any 12 month period of this Agreement, Licensee shall be considered to be in breach of this Agreement and CITY will have the right to terminate this Agreement and require removal of all of Licensee's Facilities in accordance with Article 11 of this Agreement. This provision applies only to Unauthorized Attachments made after the Effective Date of this Agreement. Any Unauthorized Attachments made prior to the Effective Date of this Agreement shall not be considered in determining whether Licensee has excessive Unauthorized Attachments under this provision.

15. FORCE MAJEURE EVENT

If either Party becomes unable, either wholly or in part, by a Force Majeure Event, to fulfill its obligations under this Agreement, the obligations affected by the Force Majeure Event will be suspended only during the continuance of that inability. The Party so affected will give written notice of the existence, extent and nature of the Force Majeure Event to the other Party within forty- eight (48) hours after the occurrence of the event. The Party so affected will remedy its inability as soon as possible. Failure to give notice will result in the continuance of the affected Party's obligation regardless of the extent of any existing Force Majeure Event.

16. INDEMNIFICATION

- 16.1 Disclaimer of Liability: CITY shall not at any time be required to pay from its own funds for injury or damage occurring to any person or property from any cause whatsoever arising out of Licensee's construction, reconstruction, maintenance, repair, use, operation, condition or dismantling of Licensee's cable system or Licensee's provision of service.
- 16.2 Indemnification: Licensee shall, at its sole cost and expense, indemnify, defend and hold harmless CITY and all associated, affiliated, allied and subsidiary entities of CITY, now existing or hereinafter created, and their respective officers, boards, commissions, councils, employees, agents, attorneys, and contractors (CITY and such other persons and entities being collectively referred to herein as "indemnitees"), from and against:
- 16.2.1 Any and all liabilities, obligations, damages, penalties, claims, liens, costs, charges, losses and expenses (including, without limitation, reasonable fees and expenses of attorneys, expert witnesses and consultants), which may be imposed upon, incurred by or be asserted against the indemnitees by reason of any act or omission of Licensee, its personnel, employees, agents, contractors, subcontractors or Affiliates, resulting in economic harm, personal injury, bodily injury, sickness, disease or death to any

person or damage to, loss of or destruction of tangible or intangible property, libel, slander, invasion of privacy and unauthorized use of any trademark, trade name, copyright, patent, service mark or any other right of any person, firm or corporation, which may arise out of or be in any way connected with the construction, reconstruction, installation, operation, maintenance or condition of Licensee's Facilities or other property of Licensee or its Affiliates and any other facilities authorized by or Permitted under this Agreement (including those arising from any matter contained in or resulting from the transmission of programming over the Communications Facilities), but excluding any programming provided by the Indemnitees' Communications Services or other services authorized by or Permitted under this Agreement, the release of hazardous substances, or; the failure to comply with any federal, state or local statute, law, code, ordinance or regulation [please confirm that the highlighted exclusions from Licensee's indemnity obligations are acceptable to the City]

- 16.2.2 Any and all liabilities, obligations, damages, penalties, claims, liens, costs, charges, losses and expenses (including, without limitation, reasonable fees and expenses of attorneys, expert witnesses and other consultants), which are imposed upon, incurred by or asserted against the indemnitees by reason of any claim or lien arising out of work, labor, materials or supplies provided or supplied to Licensee, its contractors or subcontractors, for the installation, construction, reconstruction, operation or maintenance of Licensee's Facilities (and any other facilities authorized by or Permitted under this Agreement, or provision of Communications Services or other services authorized by or Permitted under this Agreement), and, upon the written request of CITY, Licensee shall cause such claim or lien covering CITY's property to be discharged or bonded within thirty (30) days following such request.
- 16.2.3 Any and all liabilities, obligations, damages, penalties, claims, liens, costs, charges, losses and expenses (including, without limitation, reasonable fees and expenses of attorneys, expert witnesses and consultants), which may be imposed upon, incurred by or be asserted against the indemnitees by reason of any financing or securities offering by Licensee or its Affiliates for violations of the common law or any laws, statutes, or regulations of the State of Arkansas or the United States, including those of the Federal Securities and Exchange Commission, whether by Licensee or otherwise.
- 16.2.4 Licensee's obligation to indemnify indemnitees under this Agreement shall not extend to claims, losses, and other matters covered hereunder that are caused or contributed to by the gross negligence or willful misconduct of one or more Indemnitees. In such case the obligation to indemnify shall be reduced in proportion to the gross negligence or willful misconduct of the indemnitees. By entering into this Agreement, CITY does not consent to suit, waive its governmental immunity or the limitations as to damages contained in federal, state, or local laws.
- 16.3 Assumption of Risk: Licensee undertakes and assumes for its officers, agents, contractors and subcontractors and employees (collectively "Licensee" for the purpose of this Section), all risk of dangerous conditions, if any, on or about any CITY-owned or controlled property, the streets and public ways, and Licensee hereby agrees to indemnify and hold harmless the

Indemnites against and from any claim asserted or liability imposed upon the Indemnites for personal injury or property damage to any person (other than from Indemnites' gross negligence) arising out of Licensee's installation, operation, maintenance or condition of the Communications Facilities or other facilities or Licensee's failure to comply with any federal, state or local statute, law, code, ordinance or regulation.

- 16.4 **Defense of indemnites:** In the event any action or proceeding shall be brought against the indemnites by reason of any matter for which the Indemnites are indemnified hereunder, Licensee shall, upon notice from any of the indemnites, at Licensee's sole cost and expense, resist and defend the same with legal counsel selected by Licensee and consented to by CITY, such consent not to be unreasonably withheld; provided, however, that Licensee shall not admit liability in any such matter on behalf of the Indemnites without their written consent and provided further that Indemnites shall not admit liability for, nor enter into any compromise or settlement of, any claim for which they are indemnified hereunder, without the prior written consent of Licensee.
- 16.5 **Notice, Cooperation and Expenses:** The Indemnites shall give Licensee prompt notice of the making of any claim or the commencement of any action, suit or other proceeding covered by the provisions of this Section 16. Nothing herein shall be deemed to prevent the Indemnites at their own expense from cooperating with Licensee and participating in the defense of any litigation by their own counsel.

17. DUTIES, RESPONSIBILITIES, AND EXCULPATION

- 17.1 **Duty to Inspect.** Licensee acknowledges and agrees that CITY does not warrant the condition or safety of CITY Facilities or the premises surrounding the CITY Facilities, and Licensee further acknowledges and agrees that it has an obligation to inspect CITY's Poles, and/or premises surrounding the Poles prior to commencing any work on CITY's Poles or entering the premises surrounding the Poles.
- 17.2 **Knowledge of Work Conditions.** By executing this Agreement, Licensee warrants that it has acquainted, or will fully acquaint, itself and its employees and/or contractors and agents with the conditions relating to the work that Licensee will undertake under this Agreement and that it fully understands or will acquaint itself with the facilities, difficulties, and restrictions attending the execution of such work.
- 17.3 **Duty of Competent Supervision and Performance.** The Parties further understand and agree that in the performance of work under this Agreement, Licensee and its agents, servants, employees, contractors and subcontractors will work near electrically energized lines, transformers, or other CITY Facilities, and it is the intention that energy therein will not be interrupted during the continuance of this Agreement, except in an emergency endangering life, or potentially causing grave personal injury or significant property damage. Licensee shall ensure that its employees, servants, agents, contractors and subcontractors have the necessary qualifications, skill, knowledge, training, and experience to protect themselves, their fellow employees, employees of CITY, and the general public from harm or injury while performing work permitted pursuant to this Agreement. In addition, Licensee shall comply with all requirements of federal, state, and local laws, and shall furnish its employees, servants, agents, contractors and subcontractors with competent supervision and sufficient and adequate tools and equipment for their work to be performed in a safe manner.

Licensee agrees that in emergency situations in which it may be necessary to de-energize any part of CITY's equipment, Licensee shall ensure that work is suspended until the equipment has been de-energized and that no such work is conducted unless and until the equipment is made safe.

- 17.4 Requests to De-energize. In the event CITY de-energizes any equipment or line at Licensee's written request and for its benefit and convenience in performing a particular segment of any work, Licensee shall reimburse CITY in full for all costs and expenses incurred in accordance with Article 3, Section 3.9, in order to comply with Licensee's request. Before CITY de-energizes any equipment or line, it shall provide, upon request, all costs and expenses to be incurred in accommodating Licensee's request.
- 17.5 Interruption of Service. In the event that Licensee causes an interruption of service by damaging or interfering with any equipment of CITY, Licensee, at its expense, shall immediately do all things reasonable to avoid injury or damages, direct and incidental, resulting from and shall notify CITY immediately.
- 17.6 Duty to Inform. Licensee further warrants that it understands the imminent dangers, INCLUDING SERIOUS BODILY INJURY OR DEATH FROM ELECTROCUTION, inherent in the work necessary to make installations on CITY's Poles by Licensee's employees, servants, agents, contractors or subcontractors, and Licensee accepts as its duty and sole responsibility to notify, inform, and keep informed Licensee's employees, servants, agents, contractors or subcontractors of such dangers, and to keep them informed regarding same.

18. INSURANCE

- 18.1 Insurance: During the term of this Agreement, Licensee shall maintain, or cause to be maintained, in full force and effect and at its sole cost and expense, the following types and limits of insurance:
- 18.1.1 Worker's compensation insurance meeting Arkansas statutory requirements and employer's liability insurance with minimum limits of One Million Dollars (\$1,000,000) for each accident, and any applicable Federal insurance (such as Jones Act) of a similar nature.
- 18.1.2 Commercial general liability insurance with minimum limits of Two Million Dollars (\$2,000,000) as the combined single limit for each occurrence of bodily injury, personal injury and property damage. The policy shall include coverage for: products and completed operations liability; independent contractor's liability; and coverage for property damage from perils of explosion, collapse or damage to underground utilities, commonly known as XCU coverage.
- 18.1.3 Automobile liability insurance covering all owned, hired, and non-owned vehicles in use by Licensee, its employees and agents, to comply with the provisions of Arkansas law with minimum limits of One Million Dollars (\$1,000,000) as the combined single limit for each occurrence for bodily injury and property damage.
- 18.1.4 The coverage amounts set forth above may be met by a combination of underlying (primary) and umbrella policies so long as in combination the limits equal or exceed those stated.

- 18.1.5 All policies of insurance shall contain a waiver of subrogation clause consistent, however, with Section 16.2.4.
- 18.1.6 Notwithstanding the above, if Licensee is authorized to operate as a self-insured entity under the laws of the State of Arkansas, Licensee may provide self-insurance to meet the requirements of this Section I 8.1 upon terms and conditions satisfactory to CITY.
- 18.2 Named Insureds: All policies, except for worker's compensation policies, shall name CITY and all associated, affiliated, allied and subsidiary entities of CITY, now existing or hereafter created, and their respective officers, boards, commissions, councils, employees, agents, attorneys and contractors, as their respective interests may appear, as additional insureds (CITY and such other persons and entities being collectively referred to herein as the "Additional Insureds") and shall include cross-liability coverage.
- 18.3 Evidence of Insurance: A certificate of insurance evidencing the preceding coverages shall be provided upon execution of this Agreement. Certificates of insurance for each insurance policy required to be obtained by Licensee in compliance with this Section, along with written evidence of payment of required premiums, shall be filed and maintained with CITY annually during the term Agreement. Licensee shall immediately advise the Additional Insureds of any claim or litigation that may result in liability to them.
- 18.4 Cancellation of Policies of Insurance: All insurance policies maintained pursuant to this Agreement shall contain an endorsement in the form set forth on Appendix J, or such subsequent form mutually agreed to between the Parties, requiring prior written notice to be given to CITY by the insurer of any intention to cancel or not renew such policy.
- 18.5 Insurance Companies: (a) All insurance shall be effected under valid and enforceable policies, insured by insurers licensed to do business by the State of Arkansas or surplus line carriers on the State of Arkansas Insurance Commissioner's approved list of companies qualified to do business in the State of Arkansas. (b) All insurance carriers and surplus line carriers shall be rated A or better by A.M. Best Company. Should the rating of an insurance carrier fall below that set forth in the preceding sentence then Licensee shall either immediately obtain policies from carriers complying with the preceding rating or the CITY may obtain at Licensee's expense policies from carriers meeting the preceding rating requirement.
- 18.6 Contractors: Licensee shall either (a) require that each and every one of its contractors and their subcontractors carry, in full force and effect, workers' compensation, commercial general liability, and automobile liability insurance which complies with all terms of this Section 18, or (b) Licensee may provide such coverages for any or all its contractors or subcontractors (such as by adding them to Licensee's policies).
- 18.7 Insurance Primary: As between CITY and/or Additional Insureds on the one hand, and Licensee on the other hand, if more than one policy of insurance does or may apply to a given claim or matter, then the policy maintained by Licensee pursuant to this Agreement shall be deemed the primary policy, and that policy shall contain a provision that states that it is the primary policy as opposed to any other policy of insurance that may apply to the CITY/Additional Insureds on any given claim or matter. The term "policy of insurance" as applied to the Additional Insureds shall include any self-insurance program, self-insured

retention or deductible, or risk pooling program or an indemnification, defense, or other similar program purchased or maintained by CITY/Additional Insureds.

- 18.8 **Review of Limits:** Once every year after 2022 during the term of this Agreement, CITY may review the insurance coverages to be carried by Licensee. If CITY determines that higher limits of coverage are necessary to protect the health, safety or welfare of the public or the interests of CITY or the Additional Insureds, Licensee shall be so notified and shall obtain the additional limits of insurance, at its sole cost and expense. However, such higher limits of coverage shall not be more than twice the limits set forth above.

19. AUTHORIZATION NOT EXCLUSIVE

CITY shall have the right to grant, renew and extend rights and privileges to others not party to this Agreement, including Joint-Use Pole owners, by contract or otherwise, to use CITY Facilities covered by this Agreement. Such rights shall not interfere with the rights granted to Licensee by the specific Permits issued pursuant to this Agreement.

20. ASSIGNMENT

- 20.1 **Limitations on Assignment.** Licensee shall not assign its rights or obligations under this Agreement, nor any part of such rights or obligations, without the prior written consent of CITY, which consent shall not be unreasonably withheld, conditioned, or delayed. As a condition of an assignment the proposed assignee shall execute a written acknowledgment that it has read, understood, and intends to abide by this Agreement, and that the assignee assumes all obligations and liabilities imposed by this Agreement on the former Licensee. Further, CITY and Licensee acknowledge and agree that, as a condition to consenting to any such assignment, CITY may, in its sole discretion, require that the proposed assignee provide a performance bond in compliance with Section 28, even if CITY may have previously suspended or conditioned Licensee's obligation to provide or maintain such a performance bond. Notwithstanding the foregoing, Licensee may, upon reasonable notice to CITY, assign its rights or obligations under this Agreement to another entity that is wholly owned by Licensee's parent company without the prior written consent of CITY.

- 20.2 **Sub-licensing.** On a going forward basis, without CITY's prior written consent, Licensee shall not sub-license to a third party, including, but not limited to, allowing third parties to place Attachments on CITY's Facilities, including Overlashing, or to place Attachments for the benefit of such third parties on CITY's Poles. Any such action shall constitute a material breach of this Agreement. The use of Licensee's Facilities by third parties (including, but not limited to, leases of dark fiber) that involves no additional Attachment or Overlashing is not subject to the provisions of this Article 20, Section 20.2.

21. FAILURE TO ENFORCE

Failure of CITY or Licensee to take action to enforce compliance with any of the terms or conditions of this Agreement, or to give notice or declare this Agreement or any authorization granted hereunder terminated, shall not constitute a waiver or relinquishment of any term or condition of this Agreement, but the same shall be and remain at all times in full force and effect until terminated, in accordance with this Agreement.

22. TERMINATION OF AGREEMENT

- 22.1 Notwithstanding CITY's rights under Article 12, CITY shall have the right, pursuant to the procedure set out in Article 22, Section 22.2, to terminate this entire Agreement, or any Permit issued hereunder, whenever Licensee is in default of any term or condition of this Agreement, including, but not limited to, the following circumstances:
- 22.1.1 Construction, operation or maintenance of Licensee's Communications Facilities in violation of law or in aid of any known unlawful act or undertaking; or
 - 22.1.2 Construction, operation or maintenance of Licensee's Communications Facilities after any authorization required of Licensee has lawfully been denied or revoked by any governmental or private authority, subject to Section 12.1.
 - 22.1.3 Construction, operation or maintenance of Licensee's Communications Facilities without the insurance coverage required under Article 18.
- 22.2 CITY will notify Licensee in writing within fifteen (15) calendar days, or as soon as reasonably practicable, of any condition(s) applicable to Section 22.1 above. Licensee shall take immediate corrective action to eliminate any such condition(s) within thirty (30) calendar days, or such longer period mutually agreed to by the parties, and shall confirm in writing to CITY that the cited condition(s) has (have) ceased or been corrected. If Licensee fails to discontinue or correct such condition(s), and/or fails to give the required confirmation, CITY may immediately terminate this Agreement or any Permit(s) upon thirty (30) days written notice to Licensee. In the event of termination of this Agreement or any of Licensee's rights, privileges or authorizations hereunder, CITY may seek removal of Licensee's Communications Facilities pursuant to the terms of Article 11, provided, that Licensee shall be liable for and pay all fees and charges to CITY pursuant to terms of this Agreement until Licensee's Communications Facilities are actually removed. Licensee will reimburse CITY all costs associated with removal of Licensee's Communications Facilities within thirty (30) days of invoicing.

23. TERM OF AGREEMENT

- 23.1 Term. This Agreement shall become effective upon its execution and if not terminated in accordance with other provisions of this Agreement, shall continue in effect for a term of five (5) years and renewing thereafter in one-year intervals unless terminated by either Party. Either Party may terminate this Agreement after the end of the initial five (5)-year term by giving to the other Party written notice of an intention to terminate the Agreement at least one-hundred-eighty (180) calendar days prior to the date of termination.
- 23.2 Survival of Obligations. Even after the termination of this Agreement, and subject to any applicable statute of limitations, the Parties' responsibility and indemnity obligations to each other shall continue with respect to any claims or demands related to this Agreement as provided for in Article 16.

24. AMENDING AGREEMENT

Notwithstanding other provisions of this Agreement, the terms and conditions of this Agreement shall not be amended, changed, or altered except in writing signed by authorized representatives of both Parties.

25. DISPUTE RESOLUTION

This Article shall govern any dispute resolution process between CITY and Licensee arising from or related to the subject matter of this Agreement that is not resolved by agreement between their respective personnel responsible for day-to-day administration and performance of this Agreement. Upon mutual agreement of the Parties, prior to the filing of any suit with respect to such a dispute, other than a suit seeking injunctive relief with respect to intellectual property rights, the Party believing itself aggrieved ("the Invoking Party") will call for progressive management involvement in the dispute negotiation by giving written notice to the other Party. Such a notice will be without prejudice to the Invoking Party's right to any other remedy permitted by this Agreement. CITY and Licensee will use their best efforts to arrange personal meetings and/or telephone conferences as needed, at mutually convenient times and places, between their negotiators at the following successive management levels, each of which will have a period of allotted time as specified below in which to attempt to resolve the dispute:

	<u>CITY</u>	Licensee	
First Level	<i>City Pole Attachment Representative</i>	<i>New Construction Supervisor</i>	5 days
Second Level	<i>Electric Distribution Manager</i>	<i>Construction Services Manager</i>	5 days
Third Level	<i>Director of Electric Utilities</i>	<i>Director of Systems Engineering</i>	15 days

The allotted time for the first-level negotiators will begin on the third day following delivery of the Invoking Party's notice. If a resolution is not achieved by the negotiators at any given management level at the end of their allotted time, then the allotted time for the negotiators at the next management level, if any, will begin on the next business day unless the Parties agreed otherwise. If a resolution is not achieved by negotiators at the final management level within their allotted time, then either Party may within ten (10) days thereafter request non-binding mediation to resolve the dispute. The mediation shall take place in a location mutually agreed to by the Parties. The allotted period for completion of the mediation shall be thirty (30) days. Based on mutual agreement, disputes may be submitted to binding arbitration under the Commercial Arbitration Rules of the American Arbitration Association in effect at the time the matter is submitted to arbitration, with discovery to be conducted under the supervision of the arbitrator pursuant to the Arkansas Rules of Civil Procedure. Notwithstanding the foregoing, either Party may file an action in a court of competent jurisdiction within the State of Arkansas to resolve the dispute at any time unless otherwise agreed.

26. NOTICES

26.1 Notice.

- a) Wherever this Agreement requires notice to be given as to Sections 16, 18, 20, 22, 24, 25, 27, or 28 by either Party to the other, such notice shall be in writing and delivered to the other Party via certified mail, return receipt requested, or national overnight delivery

service with postage prepaid, and, except where specifically provided for elsewhere, properly addressed as follows:

If to CITY:	City of Bentonville Attn: City Attorney 117 West Central Bentonville, Arkansas 72712
If to Licensee:	Senior Vice President, Engineering Ritter Communications 2400 Ritter Drive Jonesboro, AR 72401

b) Wherever this Agreement requires notice to be given as to any other section of this Agreement by either Party to the other, such notice shall be in writing and delivered to the other Party via certified mail, return receipt requested, or national overnight delivery service with postage prepaid, and, except where specifically provided for elsewhere, properly addressed as follows:

If to CITY:	City of Bentonville Engineering Director 117 West Central Bentonville, Arkansas 72712
If to Licensee:	Senior Vice President, Engineering Ritter Communications 2400 Ritter Drive Jonesboro, AR 72401

or to such other address as either Party, from time to time, may give the other Party in writing. Notices shall be deemed to have been delivered upon the actual, verifiable date of receipt or refusal of delivery thereof by the recipient Party.

- 26.2 Emergency Contact. Each Party shall maintain a staffed 24-hour emergency telephone number where a Party can contact the other Party to report damage to the other Party's Facilities or other situations requiring immediate communications between the Parties. Such contact person shall be qualified and able to respond to the other Party's concerns and requests. Failure to maintain an emergency contact shall subject the Licensee to a charge equal to the actual costs incurred by CITY per incident and shall eliminate CITY's liability to Licensee for any actions that CITY deems reasonably necessary given the specific circumstances.

27. RECEIVERSHIP, FORECLOSURE, OR ACT OF BANKRUPTCY

- 27.1 The rights granted to Licensee hereunder, at the option of CITY, shall cease and terminate one hundred twenty (120) days after the appointment of a receiver or receivers, or trustee or trustees, to take over and conduct the business of Licensee whether in a receivership, reorganization, , bankruptcy or other action or proceeding unless such receivership or trusteeship shall have been vacated prior to the expiration of said one hundred twenty (120) days, or unless:
- 27.1.1 to the extent permitted by law, within one hundred twenty (120) days after their election or appointment, such receivers or trustees shall have complied fully with all the terms and provisions of this Agreement granted pursuant hereto, and the receivers or trustees within said one hundred twenty (120) days shall have remedied all defaults under the Agreement, if any; and
- 27.1.2 to the extent permitted by law, within said one hundred twenty (120) days, such receivers or trustees shall execute an agreement duly approved by CITY having jurisdiction in the premises, whereby such receivers or trustees assume and agree to be bound by each and every term, provision and limitation of this Agreement.
- 27.2 In the case of foreclosure or other judicial sale of the plant, property and equipment of Licensee, or any part thereof, including or excluding this Agreement, CITY may serve notice of termination upon Licensee and the successful bidder at such sale, in which event the Agreement herein granted and all rights and privileges of the Agreement hereunder shall cease and terminate thirty (30) days after service of such notice, unless:
- 27.2.1 CITY shall have approved the transfer of this Agreement, as and in the manner in this Agreement provided; and
- 27.2.2 Unless such successful bidder shall have agreed with CITY to assume and be bound by all the terms and conditions to this Agreement.
- 27.3 Licensee shall notify CITY not later than thirty (30) days of the filing of a receivership, reorganization, bankruptcy or other such action or proceeding by or against Licensee.

28. PERFORMANCE BONDS

- 28.1 Prior to making any Attachments under this Agreement, Licensee shall furnish and maintain throughout the term of this Agreement, and thereafter until all of the obligations of Licensee have been fully performed, a bond, or other security instrument satisfactory in form and content to CITY, to guarantee the payment of any sums which may become due to CITY or a CITY agent for Pole Attachment Fees, inspections, inventories, Make-Ready Work costs,

Unauthorized Attachment Charges, for work performed for the benefit of Licensee under this Agreement, including the removal of Attachments upon termination of this Agreement, for any expense that may be incurred by CITY or a CITY agent because of any default of Licensee, or for any other expense that is to be borne by Licensee under this Agreement. The initial amount of said security instrument shall be an amount equal to thirty dollars (\$30.00) per Licensee Attachment (the "Bond Rate") multiplied by the number of Licensee Attachments on CITY Pole. The Bond Rate shall not be subject to escalation, or other annual or periodic adjustments; provided, however, that the Bond Rate shall only remain in effect until such time as the total number of Licensee Attachments on CITY Poles exceeds seven-thousand (7000). At such time as the total number of Licensee Attachments on CITY Poles exceeds seven-thousand (7000), or at any time thereafter, CITY may, in its reasonable discretion and based on cost or other operational factors, increase the Bond Rate. Upon being provided with notice of any such increased Bond Rate, Licensee shall, within thirty (30) days of receiving such notification, provide a replacement bond, or other satisfactory security instrument, in an amount consistent with the increased Bond Rate. Failure to provide and maintain the aforementioned bond or other security instrument shall be deemed a default under this Agreement, in which event CITY shall have the right to pursue any and all remedies set forth in this Agreement. The furnishing of such bond or other security instrument shall not affect, limit, diminish or otherwise reduce any obligations of Licensee under this Agreement. The institution providing the bond or other security instrument shall be a U.S. Treasury listed company and authorized to write bonds in the State of Arkansas.

- 28.2 Within thirty (30) days after notice to Licensee that any amount has been drawn against the bond by CITY, Licensee shall take action to replenish the bond to its prior amount.
- 28.3 Licensee shall provide CITY with thirty (30) days prior written notice of any cancellation or replacement of the bond. Failure to maintain the bond throughout the term of the Agreement shall constitute a material breach of the Agreement retroactive to the date of the notice of cancellation of the bond.
- 28.4 Notwithstanding the foregoing requirements of this Section 28, CITY may, in its sole discretion, and by written notice to Licensee made in accordance with Section 26, suspend or otherwise condition Licensee's obligation to provide or maintain a performance bond.

29. ENTIRE AGREEMENT

Except as to any payments or credits due under previous agreements as of the execution of this Agreement, this Agreement supersedes all previous agreements, whether written or oral, between CITY and Licensee for placement and maintenance of Licensee's Facilities on CITY's Poles within the geographical service area covered by this Agreement; and there are no other provisions, terms or conditions to this Agreement except as expressed herein.

30. SEVERABILITY

If any provision or portion thereof of this Agreement is or becomes invalid under any applicable statute or rule of law, and such invalidity does not materially alter the essence of the Agreement to either Party, such provision shall not render unenforceable this entire Agreement but rather it is the intent of the parties that this Agreement be administered as if not containing the invalid provision.

31. GOVERNING LAW

The validity, performance and all matters relating to the effect of this Agreement and any amendment hereto shall be governed by the laws (without reference to choice of law) of the State of Arkansas.

32. INCORPORATION OF RECITALS AND APPENDICES

The Recitals stated above and all appendices to this Agreement are incorporated into and constitute part of this Agreement.

33. MISCELLANEOUS PROVISIONS

- 33.1 Revisions to Appendices. The Appendices to this Agreement are part of the Agreement. CITY may revise any of the Appendices to this Agreement at any time upon thirty (30) days prior written notice to Licensee. Upon acceptance by the Licensee and Joint-Pole Users, the revised Appendix will become a part of this Agreement and Licensee shall comply with any new requirements on a going forward basis, except as otherwise specifically provided in this Agreement. Licensee will be deemed to accept the revised Appendix if CITY does not receive a written rejection of the Appendix from Licensee within sixty (60) calendar days of the date CITY sends the revised Appendix to Licensee. If CITY receives a written rejection within the sixty (60)-calendar day period, and Licensee and CITY are unable to reach a compromise, the new requirement(s) shall become effective or either Party may seek dispute resolution in accordance with Section 25 of this Agreement or judicial or administrative review.
- 33.2 No Waiver. The failure of CITY or Licensee to enforce or to insist upon compliance with any of the terms or conditions of this Agreement does not constitute a waiver or relinquishment of any terms or conditions of the Agreement.
- 33.3 Prior Agreements. Except as to any payments or credits due under prior agreements as of the execution of this Agreement, this Agreement supersedes all prior agreements, oral or otherwise, between the parties providing for attachment of Licensee's Facilities to CITY Poles. All Attachments existing as of the execution of this Agreement and all future Attachments are and shall be governed by this Agreement, except that it is not necessary for Licensee to obtain a new Attachment Permit for Attachments authorized prior to the execution of this Agreement under permits obtained under prior agreements between Licensee and CITY. From time to time, the Applicable Standards incorporated into this Agreement may be revised by CITY to reflect changes in national standards, laws, technology and working conditions. Except as required by federal, state, or municipal law, rule, regulation, or ordinance, any of Licensee's Facilities which were installed in compliance with the Applicable Standards at the time of said installation shall be excepted from any new or revised Applicable Standards until Licensee next performs work on those Facilities. Thereafter, when Licensee next performs work on Licensee's Facilities that do not comply with the new or revised Applicable Standards, Licensee shall insure that such locations are brought into compliance with all new or revised Applicable Standards.
- 33.4 Contractors and Agents Bound. Licensee agrees to include in all its contracts and agreements with independent contractors or agents provisions which are consistent with and which will

fulfill the requirements of this Agreement, including, without limitation, the indemnities, all waivers of liability and insurance requirements.

- 33.5 No Third Party Beneficiaries. The terms and provisions of this Agreement are intended to be for the benefit of CITY and Licensee except as otherwise provided in this Agreement, and nothing in this Agreement, express or implied, is intended to confer upon any person or entity, other than the Parties to this Agreement, any benefits, rights or remedies under or by reason of this Agreement,

IN WITNESS WHEREOF the Parties hereto have executed this Agreement in duplicate on the day and year first written above.

City Bentonville, Arkansas

Signed; _____
Name : _____
Title: _____
Date: _____

E Ritter Communications LLC

Signed; _____
Name : _____
Title: _____
Date: _____

List of Appendices

Appendix A	Attachment Permit Procedure
Appendix B	Attachment Application and Attachment Permit
Appendix C	Authorization for Make-Ready Work
Appendix D	Specifications for Licensee's Attachments
Appendix E	Pole Specifications
Appendix F	Reserve for CITY Future Use
Appendix G	Reserve for CITY Future Use
Appendix H	Notification of Attachment Removal by Licensee
Appendix I	Schedule of Pole Attachment Rates
Appendix J	Form of Insurance Cancellation Notice
Appendix K	Tag List
Appendix L	Development Plan

APPENDIX A

ATTACHMENT PERMIT PROCEDURE

(Page 1 of 2)

- I. Before Licensee makes any Attachment, except Service Wires, to the Poles owned by CITY, or performs any Overlashing to existing Attachments on CITY's Poles, Licensee shall request permission in writing using the Application To Attach form attached hereto and identified as Appendix B, Part 1, attaching thereto an installation plan and drawings for each Pole line where Licensee desires to make Attachments, which shall consist of maps adequate to enable CITY to identify and locate the Poles to which Licensee desires to attach, as well as the weight, tension, sag data, and size of the Attachments to be placed on such Poles. No Application To Attach form shall include more than 50 Poles unless prior permission is obtained from CITY or except as otherwise expressly permitted in the Agreement. Nothing in this paragraph shall be construed to require Licensee to submit an Application To Attach for (i) authorized Attachments of Licensee existing on Poles owned by CITY as of the Effective Date of this Agreement or (ii) for Attachments to Poles which come to be owned by CITY where such exist as of the date such Poles come to be owned by CITY. For Service Wires, Licensee shall submit Appendix B, Part 3, Record of Service Wire Attachments to CITY within 30 days of the installation of Service Wires so that CITY may adjust CITY's inventory records for the placement of such Attachments. Licensee may furnish a summary Record of Service Wire Attachments periodically, but shall do so not less than monthly, listing all such Service Wires placed on CITY's Poles. Such listing shall consist of a map designating the Pole(s), including any intermediate Poles, to which such Service Wires are attached and the number of such Service Wires if not attached in the same foot of space. Service Wires which are located within Licensee's Assigned Space, as defined in Article 1 of the Agreement, on previously Permitted Poles, do not require such Notice. Nonetheless, all Service Wire installations must comply with, and are subject to, all other provisions of this Agreement. Service Wires are not subject to Post-Construction Inspections and Service Wires Reported on Records of Service Wire Attachments are not subject to either portion of the Application Fee.
- II. Each Appendix B, Application To Attach form submitted by Licensee shall be accompanied with an Application Fee as set forth in Appendix I as to each Appendix B to offset CITY's administrative costs associated with processing the application. The costs incurred by the City for performing the Pre-Construction Survey, In-Progress Inspections if such are required, and Post-Construction Inspection of the Poles covered by the application shall be billed to the Licensee at the actual costs incurred by the City:

Failure to include payment of the Application Fee, or all required information when submitting an Appendix B, will result, at CITY's option, in the returning of the Appendix B to Licensee unapproved, or holding Appendix B until payment or required information is received.
- III. All Poles shall remain the property of CITY and any payments made by Licensee for changes in Poles under this Agreement shall not entitle Licensee to ownership of any Poles.
- IV. A single Application To Attach may be submitted for multiple Poles in a Pole line or area of operations. If one or more of the Poles will have more than one Attachment, then a single Appendix B may be submitted for all of the Attachments on such Pole.

APPENDIX A

ATTACHMENT PERMIT PROCEDURE

(Page 2 of 2)

- V. In the event Licensee requires a source of commercial electrical energy for any Attachment on any of CITY's Poles, Licensee will obtain such energy from CITY and CITY will supply such energy in accordance with its standard service policies and rates and tariffs. Any and all connections made to CITY's electrical system will be performed by CITY.
- VI. In the event Licensee or its agent connects any device to CITY's electrical system, such connection shall be considered a default under the terms of this Agreement and CITY shall have the right to any and all remedies allowed by this Agreement. Further, Licensee shall pay the estimated costs of energy consumed by such device for a period equal to one month after the manufacture date of the equipment through the date discovered by CITY. In addition to the remedies which are provided in this Agreement, Licensee is also subject to the terms of CITY's Service Rules and Regulations, including but not limited to terms related to theft of electrical service, and to any other remedies available to CITY at law or in equity.

APPENDIX B
APPLICATION TO ATTACH

Submitted by Licensee: _____

Licensee Request No. _____

CITY Request No. _____

Part 1 (Completed by Licensee)

To: Electric Utility Director
City of Bentonville
3200 SW Municipal Dr.
Bentonville, AR 72712

Date: _____

Check 1 of These 2: This Application is for ☐ New Attachments ☐ Overlashing

Licensee hereby requests permission pursuant to its Pole Attachment License Agreement to make an Attachment or Overlashing to the Poles shown on the attached installation plan, which shall consist of maps adequate to enable CITY to identify and locate the Poles to which Licensee desires to attach, the weight, tension, sag data, and size of the Attachments to be placed on such Poles and all field data necessary for pole loading calculations to be performed by the City. Work will begin on or about _____ and will be completed on or about _____. This Appendix B is for Attachments or Overlashing to be made on _____ Poles. Please advise Licensee as to whether or not these Attachments will be Permitted and an estimate of any costs that Licensee may be required to pay as Make-Ready Work. Upon notice of any such costs, Licensee will pay the estimated amount, or Licensee will advise CITY that Licensee will not undertake to make these Attachments.

☐ *Licensee certifies any other necessary permits, authority, and consents from federal, state, municipal or other public authorities have been obtained.*

Name (Printed): _____ Phone: _____

Signature: _____ Fax: _____

Part 2 (Completed by CITY)

To: _____

Date: _____

(Check 1 of these 2)

____ CITY approves the above request to make Attachments or Overlashing. Modifications are - are not - required to accommodate your request. The estimated costs are \$_____. Upon receipt of payment of this amount, CITY will begin the work order required to accommodate your proposed Attachments. CITY expects to begin making these modifications about _____ days after receipt of your payment and expects to complete the work in about _____ days after the work is begun.

____ Your request to attach to these Poles is denied.

Name (Printed): _____

Phone: _____

Signature: _____

Fax: _____

APPENDIX B - Part 3,
RECORD OF SERVICE WIRE ATTACHMENTS

Submitted by Licensee: _ _ _ _ _

Licensee Request No. _____

CITY Request No. _____

(To be completed by Licensee)

To Electric Utility Director
 City of Bentonville
 3200 SW Municipal Dr.
 Bentonville, AR 72712

Date: _____

Licensee hereby submits notification, pursuant to its Pole Attachment License Agreement, of the initial Attachment of _____ Service Wire(s) on Poles belonging to CITY. The Attachments are detailed on the attached list, which includes all Service Wires, the address of the Service Wire(s), any intermediate Poles, the number of Service Wires at each location, and the date each Service Wire was installed. Service Wires reported on Records of Service Wire Attachments are not subject to either portion of the Application Fee. Notwithstanding the foregoing, the list of Service Wire Attachments shall be considered proprietary and confidential and shall be used by CITY only for operational purposes to carry out obligations of Licensee under this Agreement.

Name(Printed): _____

Phone: _____

Signature: _____

Fax: _____

APPENDIX C
AUTHORIZATION FOR MAKE-READY WORK

Submitted by Licensee: _____

Licensee Request No: _____

CITY Tracking No: _____

Part 1 (Completed by Licensee)

To Electric Utility Director
 City of Bentonville
 3200 SW Municipal Dr.
 Bentonville, AR 72712

Date: _____

(Check I of these 2)

_____ Licensee agrees to pay the costs related to CITY's Make-Ready Work required for the Attachments requested herein. A check for the costs to make the Poles suitable for the requested Attachments in the amount of \$ _____ is attached. CITY is hereby requested to proceed to make the necessary changes. Please keep us informed as to the status of your work.

_____ Licensee has decided not to make the Attachments listed in this request.

Name (Printed): _____

Phone: _____

Signature: _____

Fax: _____

Part 2 (Completed by CITY)

To: _____

Date: _____

CITY has completed the work required to prepare the Poles listed in your Application for your Attachments.

.Licensee shall provide notice to CITY (I) at least 48 hours in advance of beginning Licensee's construction. This Application, and CITY's job order associated with this request, will not be closed until we receive notice that all Licensee's work is complete and CITY has completed its final inspection of Licensee's Facilities installed or modified on CITY's Poles covered by this Application.

Licensee must notify CITY within thirty (30) days of completion of Licensee's construction.

Name (Printed): _____

Phone: _____

Signature: _____

Fax: _____

APPENDIX D

SPECIFICATIONS FOR LICENSEE'S ATTACHMENTS

(Page 1 of 2)

The following engineering and construction practices will be followed by Licensee when making new Attachments to CITY Poles on or after the Effective Date of this Agreement.

- I. Attachment and Cable Clearances: Licensee's Attachments on CITY Poles, including metal attachment clamps and bolts, metal cross-arm supports, bolts and other equipment, must be attached so as to maintain the minimum clearances specified in the National Electrical Safety Code and in drawings and specifications CITY may from time to time furnish Licensee.
- II. Sag and Mid-Span Clearances: Licensee will be particularly careful to leave proper sag in its lines and cables and shall observe the established sag of power line conductors and other cables so that minimum clearances are (a) achieved at Poles located on both ends of the span; and (b) retained throughout the span. At mid-span, a minimum of 12" of separation must be maintained between any other communications cables. At the Pole attachment, a 12" separation must be maintained between Licensee and any other connection.
- III. Vertical Runs on Poles: All vertical runs on Poles, including those for power feed for TV amplifiers, shall be placed on the quarter faces of the Pole and shall be covered by a riser guard with a two-inch (2") clearance in any direction from cable, bolts clamps, metal supports and other equipment. Secondary cable providing service to streetlights may be covered with non-metallic conduit to allow minimum clearances to communication cables as permitted in the National Electric Safety Code.
- IV. Cable Bonding: Licensee's messenger cable shall be bonded to CITY's Pole ground wire at each CITY Pole that has a ground wire. Under no condition will CITY's vertical ground wire be broken, cut, severed, or otherwise damaged by the Licensee. It shall be the responsibility of the Licensee to instruct its personnel working on CITY's Poles of the dangers involved in bonding its wires to the Electric Company's "vertical ground wire" and associated dangers thereof, and to furnish adequate protective equipment so as to save its personnel from bodily harm. CITY assumes no responsibility either for instructing Licensee's personnel, for furnishing equipment to the Licensee or its personnel, or for any liability resulting from the Licensee's personnel working on CITY's Poles.
- V. Down Guys and Anchors:
 - A. Any unbalanced loading of the City's distribution poles caused by the placement of Licensee's circuits shall be properly guyed and anchored by Licensee prior to tensioning strand with a guy and anchor provided by Licensee at no expense to the City.
 - B. Licensee may not place guy attachments to the City's anchors without the City's prior written consent.
 - C. Licensee's down guys shall be effectively insulated and shall not provide a current path to ground from the Pole ground or power system neutral.

APPENDIX D

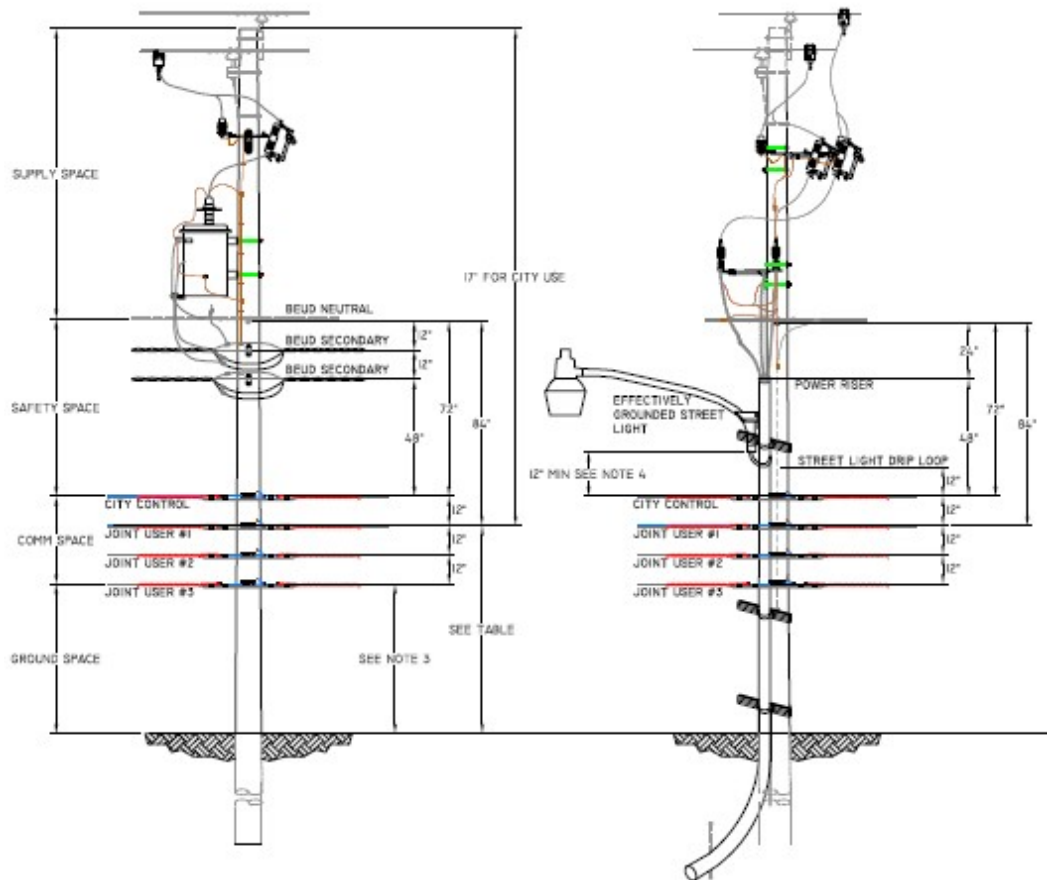
(Page 2 of 2)

- VI. Service Wire Clearance: The parallel minimum separation between Licensee's Service Wires and telephone service drops shall be twelve (12) inches.
- VII. Customer Premises: Licensee's service drop into customer premises shall be protected as required by the most current edition of the National Electrical Code.
- VIII. Service Clearances: A four-inch (4") separation shall be maintained, between CITY's service cable and/or any Other Licensees' facilities located on the customer's private property in accordance with the National Electric Safety Code and/or the National Electrical Code.
- IX. Climbing Space: A clear climbing space must be maintained at all times on the face of the Pole. All Attachments must be placed as to allow and maintain a clear and proper climbing space on the face of the CITY Pole. Licensee's Attachments shall be placed on the same side as power neutral unless otherwise specified by CITY. In general, all other Attachments and vertical runs should be placed on Pole quarter faces.
- X. Riser Installations: For and with respect to any Attachments made or new construction undertaken by Licensee after the Effective Date of this Agreement, Licensee's riser installations shall be placed on metal stand-off brackets.
- XI. Telecommunication Cables. All telecommunications cables not owned by CITY shall be attached within the communications space that begins 40 inches below the CITY neutral or the lowest CITY-owned effectively grounded equipment or messenger, which can include CITY figure-eight communication cable or CITY fiber optic cable and extends to the minimum NESC ground clearance for communications cables.
- XII. Safety Zone. No mounting brackets are permitted in the safety zone. The safety zone between communications facilities and supply facilities on the same Pole extends horizontally out to the boundaries of the climbing space and working space. The safety zone is measured vertically from the level of the closest surface of the communications facility to the level of the closest surface of the supply facility. The required clearance of the safety zone is measured vertically between the levels of the equipment involved. Stand-off bracket installation will not be allowed to meet the 40" clearance requirement.

APPENDIX E

SPECIFICATION DRAWING #1

Pole Height	Max Height of 1st Attachment
35	NA
40	17
45	21.5
50	26
55	30.5
60	35



NOTE:

1. ALL COMMUNICATION CABLES TO BE INSTALLED AS LOW ON POLE AS POSSIBLE WHILE MAINTAINING CLEARANCES.
2. IF HIGH NEUTRAL (AT SAME ELEVATION AS PHASES) THEN MINIMUM OF 16" SEPARATION BETWEEN CONDUCTORS AND JOINT USER #1.
3. MINIMUM NESC GROUND CLEARANCE FOR COMMUNICATIONS CABLE IS 15'-6" UNDER WORST CASE SAG CONDITIONS. REFER TO RULE 212 AND TABLE 232-1 OF THE NESC.
4. IF STREETLIGHT IS NOT EFFECTIVELY GROUND, MAINTAIN A MINIMUM OF 20" OF SEPARATION BETWEEN BASE OF STREET LIGHT FIXTURE AND FIRST ATTACHMENT.
5. JOINT USER REFERS TO COUNTY, SCHOOL, COX, AT&T, ETC.
6. NO COMMUNICATION EQUIPMENT SHALL BE ALLOWED TO BE MOUNTED ON THE POLE.

6/25/2014



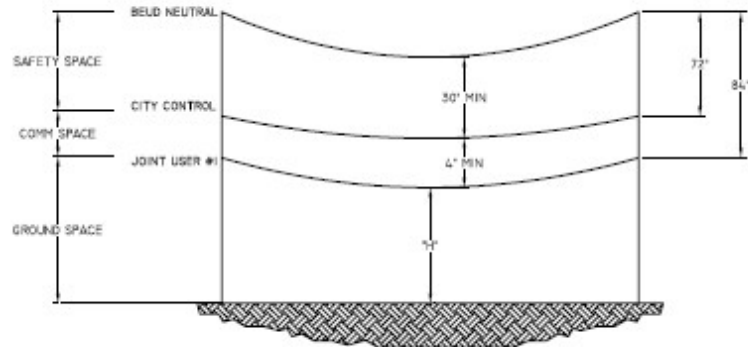
JOINT USE SPACING - TANGENT THREE PHASE POLE

DS-12xx

APPENDIX E

SPECIFICATION DRAWING #2

TYPICAL LOW NEUTRAL



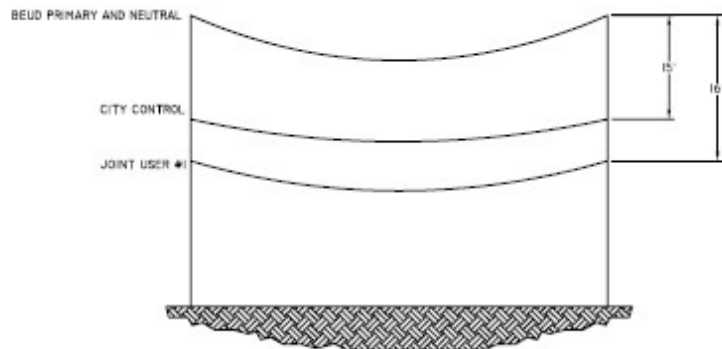
NOTE:

1. "H" IS DEFINED AS THE VERTICAL DISTANCE (HEIGHT) AS MEASURED FROM THE LOWEST POINT (TYPICALLY MIDSPAN) OF THE WIRES, CONDUCTORS, OR CABLES TO THE SURFACE BELOW.
2. SUPPLY CONDUCTOR AT GREATER OF ICE LOADED OR HIGHEST OPERATING TEMPERATURE FINAL SAG AND COMMUNICATIONS CABLE AT 32F FINAL SAG.
3. THE SPACING AT A POLE BETWEEN MESSENGERS SUPPORTING COMMUNICATION CABLES MUST NOT BE LESS THAN 12 INCHES. THE MIDSPAN CLEARANCE BETWEEN TWO COMMUNICATION CABLES SHALL NOT BE LESS THAN 4 INCHES.

"H"

- RAILROADS - 30'
ROADS / DRIVEWAYS / PARKING LOTS - 18'
PEDESTRIAN ACCESS / RESTRICTED TRAFFIC - 15.5'

BEUD HIGH NEUTRAL



NOTE:

1. SOME AREAS OF THE SYSTEM DO NOT HAVE A LOW NEUTRAL. IF BEUD DOES NOT HAVE A NEUTRAL ATTACHMENT LOW ON THE POLE AS A POINT OF REFERENCE, 15' OF SPACE SHALL BE ALLOWED BETWEEN BEUD CROSSARM AND CITY CONTROL.
2. 16' SHALL BE ALLOWED BETWEEN BEUD CROSSARM AND FIRST JOINT USER.

6/25/2014



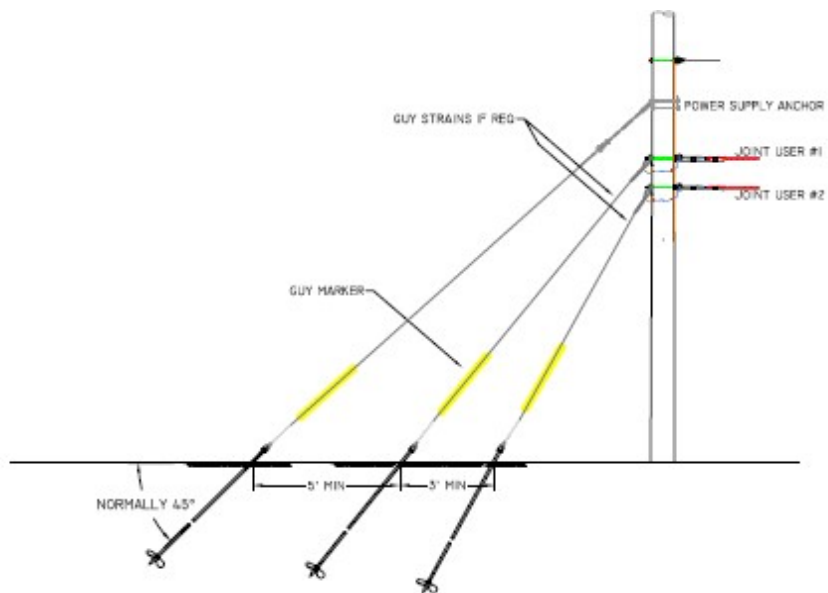
JOINT USE - MIDSPAN CLEARANCES

DS-12xx

APPENDIX E

SPECIFICATION DRAWING #3

FOR NEW CONSTRUCTION



NOTE:

1. ALL COMMUNICATION CABLES SHALL BE GUYED SEPARATELY.
2. COMMUNICATION CABLES SHALL NOT ATTACH TO A BEUD ANCHOR.
3. MINIMUM OF 5' DISTANCE BETWEEN BEUD ANCHOR AND JOINT USER ANCHOR.
4. MINIMUM 3' DISTANCE BETWEEN JOINT USER ANCHORS.
5. TYPE AND SIZE OF ANCHOR DEPENDING ON TERRAIN AND EARTH CONDITIONS. ANCHOR SHALL BE DESIGNED TO WITHSTAND TENSIONS.
6. INSTALL GUY MARKERS ON ALL GUY WIRES.

6/25/2014



JOINT USE - GUY / ANCHOR DETAIL

DS-12xx

APPENDIX F

RESERVED FOR CITY FUTURE USE

APPENDIX G

RESERVED FOR CITY FUTURE USE

APPENDIX H
NOTIFICATION OF ATTACHMENT REMOVAL

Submitted by Licensee: _____

Licensee Request No. _____

CITY Request No. _____

(To be completed by Licensee)

To Electric Utility Director
 City of Bentonville
 3200 SW Municipal Dr.
 Bentonville, AR 72712

Date: _____

Licensee hereby provides notification, pursuant to its Pole Attachment License Agreement, of the removal of _____ Licensee's Attachments on Pole(s) belonging to CITY. The Attachments are designated on the attached maps. Work will begin on or about _____ and will be completed on or about _____

This Appendix His for the removal of Attachments made on _____ Poles (indicate total number of Pole(s)).

Name(Printed): _____

Phone: _____

Signature: _____

Fax: _____

APPENDIX I

SCHEDULE OF POLE ATTACHMENT RATES

Summary

The City charges a uniform Pole and conduit Attachment rate to all communications providers (telephone, cable, other).

City reserves the right to adjust the *Schedule of Pole Attachment Rates* pertaining to Pole Attachment Rates in accordance with changes in the FCC Formulas, also delineated below. Increases in other designated rates will be as described in this Appendix I or in accordance with updated City cost information.

Attachment Fees

2023 Invoice for 2022 rental \$16.00
2024 Invoice for 2023 rental \$16.50
2025 Invoice for 2024 rental \$17.00
2026 Invoice for 2025 rental \$17.50
2027 Invoice for 2026 rental \$18.00

For the year ending 2027 and at intervals of not less than every five (5) years thereafter, the rental rates applicable under this Agreement shall be subject to joint review and revision upon the written request of either Party. Such written request shall be made at least 90 days prior to January 1 of the year the new rental rates will be effective. If any such request is made, the Parties shall negotiate in good faith to reach a mutually satisfactory rental rate, taking into consideration the allocation of space and the historical cost of Bare Poles. In the event that no agreement is reached by the Parties, the current rental rate shall be adjusted by the Handy Whitman Index, Account 364, South Central Region.

Application Fee

Effective _____

The Application Fee consists of two components: 1) an administrative fee to cover CITY's cost of receiving, logging and tracking the application for Permit; and, 2) a per pole fee to offset and applied to the actual costs of the Pre-Construction Survey required to perform preliminary engineering and to provide an estimate of the costs to accommodate the Licensee's Facilities, the In-Progress Inspection, and the initial Post-Construction Inspection. The administrative charge component is \$50 for each application, without respect to the number of Poles on the application for Permit. The per pole charge component, initially \$100.00 per pole, represents the estimated costs incurred by the City in inspecting the facilities, including pre-attachment inspections, post construction inspections, and in-progress inspections, within the area covered by the Application To Attach.

APPENDIX I

(Page 2 of 2)

Effective _____ and on that same date Each Subsequent Year

The Application Fees may be increased annually by the change in the Handy Whitman Index, Account 364, South Central Region.

Other Charges

Unauthorized Attachment Charge In addition to any annual Attachment Fees that would have been due, Licensee agrees to pay CITY an Unauthorized Attachment Charge equal to five (5) times the yearly Attachment Fee (in effect during the unauthorized period) per Attachment for which there is an Unauthorized Attachment and for which a proper Attachment Permit has not been issued by CITY or for any Attachments found being utilized to provide a service beyond which they were Permitted for. Unauthorized Attachments will be assumed to have been installed by Licensee on the next day following the last inventory conducted by CITY as described in Section 13 or 5 years prior to the date the Attachment is discovered, whichever is shorter.

Underground Relocation Charge - Licensee agrees to pay CITY \$50.00 per month for each connection which Licensee has failed to relocate.

Failure to perform timely transfers, removals, or other work required by CITY shall result in a \$50 charge at each location plus the cost incurred by the City in returning to the subject location/location to remove the old poles. If the Licensee advises the CITY in error that transfers are complete, the CITY in its sole discretion may charge the LICENSEE a trip charge of \$200.

APPENDIX J

**FORM OF CANCELLATION OF INSURANCE NOTICE
THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY**

ENDORSEMENT#

This endorsement, effective 12:01 A.M. _____ forms a part of Policy

No. _____ issued to _____ by _____

(The above "attaching clause" need be completed only when this endorsement is issued subsequent to the preparation of the policy).

NOTICE OF CANCELLATION AND NONRENEWAL TO CERTIFICATE HOLDER

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE FORM
BUSINESS AUTO COVERAGE FORM
TRUCKERS COVERAGE FORM
GARAGE COVERAGE FORM

We shall provide written notice in accordance with state law in the event this policy is cancelled or nonrenewed, for any reason other than non payment of premium, to those entities set out in the schedule below.

Schedule: _____

Notice will be mailed to: _____

Attention of: _____

Contract, Permit or Job Number: _ _ _ _ _

[illegible]

APPENDIX K

TAGGING SPECIFICATIONS (Page 2 of 2)



Qty: 500
Size: DN-34 (7" X 7")
Material: .020 CAL VINYL
Color: ORANGE WITH BLACK TEXT
Scale: Shown @ 100%

 **YOUR CUSTOM MESSAGE**

for 1" to 2" dla cable

Please inspect this proof carefully. We cannot be responsible for misspelled words, information or layout if Ok'd by the customer. This shows how your custom print job will be printed. Colors are a representation only and may vary from actual manufactured product.

FINAL ARTWORK APPROVAL _____ O.K. to print? _____ YOUR P. O. #13404
Date: _____ Name: _____ DRAWING # 14-05541

These graphics
prepared by:
Judy Schuchman



521 N. Great Southwest Pkwy • Arlington, TX 76011
Phone: 817-840-0992 • Fax: 817-633-3131

APPENDIX L

DEVELOPMENT PLAN

- A. Based on historical experience, CITY is required to add equipment to and modify attachments to existing Poles in order to fulfill CITY's obligations to its customers. Given the ongoing changing needs of the CITY's customers as well as system improvements for safety and reliability, CITY is projecting that the need to add additional equipment to Poles will continue in the foreseeable future.
- B. The CITY is projecting that the following types of equipment will be added to existing Poles in the foreseeable future:
- Transformers
 - Reclosers
 - Switches
 - Regulated Outdoor Lighting
 - Capacitor Equipment
 - Reconductoring Equipment
 - Control / Monitoring Cabling
 - Governmental Communications
 - Approved Budget Items
- C. As the City continues system improvements, costs for a larger pole due to existing attachers will be cost shared equally with all existing attachers.

RESOLUTION NO. _____

**A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO
ENTER INTO A POLE ATTACHMENT LICENSE AGREEMENT WITH
E. RITTER COMMUNICATIONS, LLC; AND FOR OTHER PURPOSES.**

WHEREAS, the City of Bentonville Electric Utility acknowledges that E. Ritter Communications, LLC. holds a statewide franchise agreement for the installation of fiber; and

WHEREAS, the Bentonville Electric Utility and E. Ritter Communications wish to enter into a license agreement to set forth standards for the installation of such fiber on Electric Utility poles.

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

Section 1: That the Mayor and Clerk should be and are hereby authorized to enter into a pole attachment license agreement with E. Ritter Communications, LLC.;

Section 2 - Severability Provision: If any part of this Resolution is held invalid, the remainder of this Resolution shall continue in effect as if such invalid portion never existed; and

Section 3 - Repeal of Conflicting Provisions: All Ordinances, Resolutions, or Orders of the City Council, or parts of the same, in conflict with this Resolution are repealed to the extent of such conflict.

PASSED and APPROVED this _____ day of _____, 2022.

APPROVED:

STEPHANIE ORMAN, Mayor

ATTEST:

KIRBY ROMINES, City Clerk



Agenda Item Form

Date of City Council Meeting	8/23/2022
Department	Water Resource Recovery Facility
Submitted by	Chris Earl
Phone	(479) 696-0273

Item Type: (Check Applicable Item Type)					
☒ Budget Adjustment	☒ Change Order	☐ Informational	☐ Ordinance	☒ Resolution	☐ Bid Award
Recommendation/Suggested Action (Enter recommendation in space below): Resolution for approval by City Council Members to accept a change order to the previously approved Bid IFB-22-60 to Seven Valleys Concrete for the unexpected issues found during the replacement of both discharge lines, (2) check valves, (3) gate valves, and the valve vault at Lift Station #23 Vaughn. This item was approved by the Utility Board 4-0.					

Estimated Cost	\$4,000.00
Is this Item Budgeted?	☐ Yes ☒ No
If no, please explain how item will be funded (briefly explain in space below): We are requesting permission through a change order to increase the approved amount in Bid IFB-22-60 due to unexpected complications during the Vaughn Lift Station upgrades. This will be funded through the Capital Improvement Account #47210, using Utility Fund Reserves.	





Budget Adjustment Request

Date of City Council Meeting	8/23/2022
Department	Water Resource Recovery Facility
Submitted by	Chris Earl
Phone	(479) 696-0273

Purpose of Budget Adjustment <i>(Enter purpose in space below):</i> Staff requests the City Council Members to approve a motion to accept a change order to the previously approved Bid IFB-22-60 to Seven Valleys Concrete for the unexpected issues found during the replacement of both discharge lines, (2) check valves, (3) gate valves, and the valve vault at Lift Station #23 Vaughn. While excavating, issues were discovered. There were two sections of pipe that made unexpected turns underground. During preplanning the prints did not show this movement. (2) 8" Stainless steel 45's, (2) stainless steel drill caps, along with miscellaneous fittings to reduce to pressure fittings were utilized to connect the section properly. This requires purchasing additional parts, welding material together, and pressure testing the lines. The circumstance required us to resolve the issue under an emergency status. We had to complete repairs before approval. This particular lift station has a very limited window of downtime, it was vital to repair the issues immediately. This change order is not a budgeted item.
--

General Ledger Account Information*				
Org (Department)	Object	Account Description	Revenue + (-)	Expense + (-)
503030	47210	Capital Improvements		\$ 4,000.00
		Totals	\$ -	\$ 4,000.00
		Net Impact on Fund Balance	\$ (4,000.00)	
*Final Account Number will be determined by Accounting Department after approval and purchase				



[illegible]

We would like to amend the previously approved bid IFB-22-60 amount of \$131,000 to account for unexpected issues found during excavation. The new additional amount of \$4,000 will be needed to fund the improvement project. The final total amount to complete the project out of the capital improvement account #47210 will be \$135,000.

Chris Earl, WRRF Manager

RESOLUTION NO. _____

**A RESOLUTION APPROVING A CHANGE ORDER TO THE AGREEMENT
WITH SEVEN VALLEYS CONCRETE FOR ADDITIONAL WORK
RELATED TO THE PROJECT AWARDED PURSUANT TO IFB 22-60;
AUTHORIZING A BUDGET ADJUSTMENT IN THE AMOUNT OF FOUR
THOUSAND DOLLARS (\$4,000.00) TO ACCOUNT #503030-47210, CAPITAL
IMPROVMENTS, FOR SUCH CHANGE ORDER; AND FOR OTHER
PURPOSES.**

WHEREAS, Seven Valleys Concrete was previously awarded IFB 22-60 for the construction of certain improvements for the Water Resource Recovery Facility;

WHEREAS, a change order to that contract is requested to allow for additional work due to unexpected issues found during the replacement of discharge lines; and

WHEREAS, this change order is in the amount of four thousand dollars (\$4,000.00) which will be funded by a budget adjustment in said amount to account #503030-47210, Capital Improvements.

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

Section 1: The Mayor and City Clerk are authorized to execute a change order to the agreement with Seven Valleys Concrete for additional work related to IFB 22-60;

Section 2: That a budget adjustment in the amount of four thousand dollars (\$4,000.00) to account #503030-47210, Capital Improvements should be and the same is hereby approved in order to fund this change order;

Section 3 - Severability Provision: If any part of this Resolution is held invalid, the remainder of this Resolution shall continue in effect as if such invalid portion never existed; and

Section 4 - Repeal of Conflicting Resolutions: All Ordinances, Resolutions, or Orders of the City Council, or parts of the same, in conflict with this Resolution are repealed to the extent of such conflict.

PASSED and APPROVED this _____ day of _____, 2022.

APPROVED:

STEPHANIE ORMAN, Mayor

ATTEST:

KIRBY ROMINES, City Clerk



Agenda Item Form

Date of City Council Meeting	8/23/2022
Department	Human Resources
Submitted by	Ed Wheeler
Phone	(479) 271-3191

Item Type: (Check Applicable Item Type)					
☐ Budget Adjustment	☐ Change Order	☐ Informational	☒ Ordinance	☐ Resolution	☐ Bid Award
Recommendation/Suggested Action (Enter recommendation in space below):					
Ordinance approving a change to the 2022 pay plan to upgrade the position of "HR Generalist", Grade 22 to HR Assistant Manager, Grade 34. This change is requested as part of a succession plan for the HR department.					

Estimated Cost	\$7,114 annually, \$1,778 for the remainder of 2022
Is this Item Budgeted?	☒ Yes ☐ No
If no, please explain how item will be funded (briefly explain in space below) :	





9 August, 2022

MEMORANDUM

From: Ed Wheeler, HR Manager

Subject: Existing Position Upgrade from HR Generalist, Grade 22 to HR Assistant Manager, Grade 34

The HR department has added two (2) full-time HR staff in the past 2 years, and is anticipating adding a 3rd staff member in 2023. Additionally, HR has taken on a number of new HR initiatives throughout the City that have greatly increased work loads and responsibilities. Converting the HR Generalist role to and HR Assistant Manager will allow for the creation of an “HR Operations Supervisor” to oversee the daily management of the existing and planned HR initiatives and create even greater efficiencies for the department and the City.

Since this is a completely new position, we had this position “Benchmarked” with the assistance of Johanson & Associates, the consulting firm that we use for all our salary surveys.

The cost for this change is minimal and funds are available in the HR budget to support this change.

Respectfully,

Ed Wheeler
HR Manager

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE PAY PLAN FOR THE CITY OF BENTONVILLE HUMAN RESOURCES DEPARTMENT TO UPGRADE THE POSITION OF HR GENERALIST TO HR ASSISTANT MANAGER; AND FOR OTHER PURPOSES.

WHEREAS, the Human Resources Department has added 2 (two) full time employees in the past 2 (two) years;

WHEREAS, the Department has additionally taken on a number of new initiatives that have creased staff work load and responsibilities;

WHEREAS, this position upgrade allows for the creation of a HR Operations Supervisor to oversee the daily management of said initiatives and create greater efficiencies for the City; and

WHEREAS, a budget adjustment is not required for this replacement.

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

Section 1: The Pay Plan for the City of Bentonville should be and is hereby amended to include the following:

Position Replacement:

Remove HR Generalist	Grade 22
Add HR Assistant Manager	Grade 34

Section 2 - Severability Provision: If any part of this Ordinance is held invalid, the remainder of this Ordinance shall continue in effect as if such invalid portion never existed.

Section 3 - Repeal of Conflicting Provisions: All Ordinances, Resolutions, or Orders of the City Council, or parts of the same, in conflict with this Ordinance are repealed to the extent of such conflict.

PASSED this _____ day of _____, 2022.

APPROVED:

STEPHANIE ORMAN, Mayor

Attest:

KIRBY ROMINES, City Clerk



Agenda Item Form

Date of City Council Meeting	8.23.2022
Department	Fire
Submitted by	Brent Boydston
Phone	(479) 271-3151

Item Type: (Check Applicable Item Type)					
☐ Budget Adjustment	☐ Change Order	☐ Informational	☐ Ordinance	☐ Resolution	☐ Bid Award
Recommendation/Suggested Action (Enter recommendation in space below):					
Ordinance for Waiver of Bid to Pinnacle Emergency Vehicles, LLC for the purchase of a 2023 Braun Ambulance in the amount of \$358,466.00. Pinnacle Emergency Vehicles LLC. is a sole source provider for this ambulance. This will complete the replacement of all front-line ambulances to the new safety standards for the Bentonville Fire Department, and maintain consistency within our fleet. Estimated build time for this ambulance is 24 - 30 months.					

Estimated Cost	\$358,466.00
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	08.23.2022
Department	Fire
Submitted by	Brent Boydston
Phone	(479) 271-3151

Vendor	Pinnacle Emergency Ambulances, LLC
Total Cost	\$ 358,466.00

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):*

2023 Braun Ambulance.

Justification *(Enter justification in space below):*

Pinnacle Emergency Vehicles is the sole source provider for this ambulance. In previous years, the Fire Department has used an HGAC cooperative contract for the purchase of Braun Ambulances through Pinnacle. Use of the HGAC contract was not feasible for this purchase due to the contract not locking in pricing for the chassis. This purchase price is the maximum price. This purchase will complete our front-line ambulance purchase that was started about 2 years ago. Due to our personnel moving from one station to another, consistency in our vehicles and equipment is paramount. This allows our personnel the ability to work in different stations without having a big learning curve with emergency vehicles and equipment.





August 8, 2022

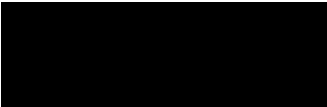
City of Bentonville
800 SW A St.
Bentonville, AR 72712

Greetings,

Please be advised that Pinnacle Emergency Vehicles is the sole source provider of Braun Ambulances in the State of Arkansas. Dealer Franchise Agreements with Braun Industries provides for exclusive territories in which dealers can do business, therefore any Braun Ambulances purchased in the State of Arkansas must be purchased from Pinnacle.

Braun's current lead-time is 24-30 months from order to delivery on new-build custom ambulances. Orders placed in August 2022 would be estimated to be delivered in mid-late 2024.

If you have any further questions, please don't hesitate to contact me.



Justin Jarvis, Owner/General Manager
Pinnacle Emergency Vehicles
justin@pinnacle-ev.com
Cell: (479) 787-8578



Quotation Summary

Bentonville Fire Dept. 2022 Liberty 2022-06-04 11-01-15

Reference: QUO0000005345 **Rev:** 1
Purchaser: Pinnacle Emergency Vehicles, LLC
Contact: Justin Jarvis
Address: 201 Commercial St.

Centerton, AR
 USA
Telephone: 1 (417) 540-0600

Opportunity: Bentonville Fire Dept. 2022 Liberty
Account: City of Bentonville
Contact: Curtis Sharp
Shipping Address: 800 SW A St.

Bentonville, AR
 USA
Currency: USD
Quotation Date: 2022-06-03

Expiration: 2022-08-31

Sales Contact: Justin Jarvis
Mobile: 1 (479) 787-8578
Phone: 1 (417) 540-0600

Name	Specifications
Liberty	-72" Headroom -156"L Full Seam Welded Module

Product	Description	Quantity	Unit Net	Total Net
LIBI	156" long x 96" wide module with 72" headroom.	1.00	358,466.00	358,466.00

Price Details	Price
Chassis, Base, and options	256,297.00
Custom Options	102,169.00

List Price Per Unit	358,466.00
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*** Ford Government Price Concession Discount will be applied at time of Invoice (if applicable.)**

Net Amount Per Unit	358,466.00
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**** Product quotes are valid for 30 calendar days. After 30 calendar days quotes are subject to change. Any applicable discounts will be added and validated at time of invoice. Discounts subject to change.**

Payment Terms: \$0 Down; Balance @ Delivery

Sales Options by Category

Braun - KKK Change Notice

Item Number	Name	Quantity
00-01-0001	GENERAL CONDITIONS -----	1.00
00-01-0006	DYNAMIC SIDE IMPACT & ROLLOVER TESTS -----	1.00
00-01-0017	BIDDER IS KKK-A-1822F CHANGE NOTICE 8-13 COMPLIANT -----	1.00
00-01-0018	BIDDER KKK-A-1822F CHANGE NOTICE 8 COMPLIANT -----	1.00
00-01-0019	BIDDER KKK-A-1822F CHANGE NOTICE 9 COMPLIANT -----	1.00
00-01-0020	BIDDER KKK-A-1822F CHANGE NOTICE 10 COMPLIANT Bidder shall be: KKK-A 1822F Change Notice 10 compliant. -----	1.00
00-01-0022	BIDDER KKK-A-1822F CHANGE NOTICE 11 COMPLIANT -----	1.00
00-01-0023	BIDDER KKK-A-1822F CHANGE NOTICE 12 COMPLIANT -----	1.00
00-01-0021	BIDDER KKK-A-1822F CHANGE NOTICE 13 COMPLIANT KKK Change Notice 13 -----	1.00
80-10-0000	KKK-A-1822F COMPLIANCE PACKAGE KKK-A-1822F compliance sticker, electrical load analysis sticker, and payload sticker shall be installed in the oxygen compartment. Any deviations from KKK-A- 1822F shall be listed in the vehicle delivery packet with a notation on the-compliance sticker. -----	1.00

Braun – Chassis

Item Number	Name	Quantity
SR00109574	Chassis to be ordered with the following: 4.10 limited slip rear axle SecuriCode Keyless entry keypad traction tires on front and rear (including spare) no ADAS ambulance prep package (47L) Aluminum wheels to be ordered with the chassis. These will include the hub, hat, and lug covers. Chassis to be ordered in Ford Race Red. -----	1.00
SR00109580	SEATS, OEM FORD F-SEREIS CHASSIS - VINYL Cab cloth seats shall be recovered with OEM Gray Vinyl Seat Covers at an after-market facility. -----	1.00
SR00109612	Golight #20214 BLACK LED permanent mount spotlight shall be installed on center of cab roof on build-up	1.00

	bracket to match units #7780-81. Operated via wired Dash-Mount remote installed on cab console. See Dwg #1, #3, #4. -----	
SR00109614	OUTLET, 125VAC One (1) outlet located on the console. -----	1.00
SR00109622	A 3M Opticom priority control system model 2100 GPS shall be installed with antenna on cab roof. -----	1.00
21LIBF450-550	TYPE I - AMBULANCE - LIBERTY- 72 INCH INTERIOR HEADROOM 2021 Liberty Type I - 156" Module - 72" Interior Headroom. Manufactured in Van Wert, Ohio, USA. -----	1.00
15-00-0010	FUEL TANK - FULL UPON FACTORY RELEASE The chassis fuel tank of the completed unit shall be full at time of release from the ambulance manufacturer's facility. -----	1.00
20-10-0603	ENGINE BLOCK HEATER - OEM PLUG An engine block heater shall be included in the chassis with the 125 VAC power cord. -----	1.00
20-20-0252	HEAT SHIELDS, PROTECTIVE Install: aluminized steel protective heat shields to the upper laterals above the exhaust system. -----	1.00
20-20-0277	HIGH IDLE SYSTEM, AUTOMATIC A high-idle system provided on the chassis, shall activate via cruise control switches on dash only when the transmission is placed in park/neutral/parking brake, will be automatically engaged when node provides low voltage signal and when in park/neutral/parking brake. -----	1.00
20-01-0105	SUSPENSION - LIQUID SPRING TYPE I Install: Liquid Spring -----	1.00
20-10-0206	BATTERY - TWO SYSTEM - F SERIES CHASSIS The vehicle shall have a 12 V two (2) battery system rated at 1500 cold cranking amps. Both batteries shall be securely installed in the Ford OEM locations, under the vehicle hood. -----	1.00
20-21-0101	FLOOR CONSOLE F450/F550 STANDARD CONSOLE - ALUMINUM PLEASE NOTE: Console drawings are for reference only and do not include all features depicted on the drawings. All consoles shall be designed, priced, and approved internally to allow for accurate BOM pricing. The prices shown are estimated for general budget pricing only and pricing is subject to design; must	1.00

	contact manufacturer for pricing validation. -----	
20-10-0112	INBOARD ARM RESTS FOR ALUMINUM CONSOLE Install: inboard arm rests in the cab. (arm rests Havis Shields C-ARM-102 mount to the aluminum floor console) -----	1.00
20-30-0806	RUNNING BOARDS - STAR PUNCHED DIAMOND PLATE Aluminum diamond plate running boards with a star punched non-skid surface shall be provided on the cab. The running boards shall be dip anodized after they are formed to retain finish and increase corrosion resistance. -----	1.00
30-10-0747	HOWLER - SIREN & SPEAKER SYSTEM / OPERATED VIA MECHANICAL SWITCH Install Whelen Howler siren & speaker system, to be activated by mechanical switch on MCC. -----	1.00
30-25-0201	LIGHTS RUNNING BOARD -WHELEN MINI-LED Install one (1) Whelen white Mini-LED's on each side of the module, low on the front, as running board lights, activated with the cab door switches -----	1.00
20-30-0202	MIRRORS, EXT OEM MANUAL TELESCOPING WREMOTE & HEAT The chassis shall have OEM manual telescoping, folding trailer tow mirrors with power/heated glass, heated convex spotter mirror, integrated clearance lamps/turn signals. -----	1.00
20-30-0261	OEM AUTO-LOCK DISABLED (cab & module doors do not auto lock or unlock) The OEM auto-lock feature will be disabled. -----	1.00
30-10-0753	SIREN, WHELEN 295-HFSA7-REMOTE WITH MICROPHONE (Meets CA Title 13) A Whelen 295-HFSA7 remote dual siren amplifier shall be flush-mounted in the master control console located in the cab. The siren shall be capable of hands-free operation and shall be equipped with a noise canceling microphone. (Meets CA Title 13) -----	1.00
30-10-0812	SIREN SPEAKERS, CAST PRODUCTS - IN FRONT BUMPER Install: Two (2) Cast Products - 100-watt siren speakers, shall be installed in outer ends of the front bumper. -----	1.00
Braun - Electrical		
Item Number	Name	Quantity
SR00109582	One set of tie in points in the ACP 12V / 40 amp (1) battery hot, (1) ignition hot, and (1) grounded 250 Amp junction stud. Relocated to curbside behind additional	1.00

	ACP -----	
SR00109586	An (OSHA approved) back up alarm shall be installed with no disable switch. (Remove disable function from program) -----	1.00
SR00109587	Install Fire Research Intercom System. The master station with push to talk and volume control will be mounted in the cab behind the vista screen. The push button will be toward the driver seat, and the speaker toward the dash, align the intercom with the edge of the console. The remote station, with the open mic shall be recessed in the patient compartment wall near the curbside ACP. See Dwg #5 * MCC and ACP vistas to include an Intercom Power Switch on the Home Screen to deactivate the Intercom System. -----	1.00
SR00109588	Mount the inverter in OSS 1A -----	1.00
SR00109618	One (1) additional Vista screen shall be provided in the patient compartment, located on the curbside wall on a fixed angled mount with removable plate over the head end of the squad bench. Angled buildout to be extended downward 6" for future radio installation and be FULL-DEPTH of upper cabinet #4 to allow for full radio installation. No bezels will be supplied by Braun. -----	1.00
SR00109630	A Brigade Backeye 360 camera system shall be installed with separate 7" color monitor installed in place of OEM rearview mirror. A patient compartment camera shall also be installed on the rear headpad. Default camera view on cab monitor shall be patient compartment & 360 view. An ADDITIONAL 10.4" color monitor shall be installed in the pad above the curbside entry door to show the curbside exterior view and 360 views only. *External camera housings to be painted body color. *To include Brigade Mobile Digital Recorder installed in front wall access panel right of HVAC unit. -----	1.00
SR00109637	Install a Cradlepoint Wi-Fi Router system per the following: -MA1-0900LPE-V 1yr NetCloud Essentials for Mobile Routers (Prime) w/support IBR900 Router with WiFi (LPE modem, ships with VZ firmware) -GWB-900 panorama low profile dome, 5 in 1 antenna: MiMo 4G LTE, MiMo 2.4/5GHz WiFi, GPS/GNSS 5m/16 cables for use with IBR900 -170635-000 IBR series vehicle power adapter -170585-000 Power & GPIO cable for COR - 12V DC voltage -----	1.00
SR00109641	Install power door locks on module passage doors, and (6) OSS compartments (includes OSS #1A and OSS #4A) use OEM key fobs. -----	1.00

30-06-0004	----- ELECTRICAL SYSTEM - WELDON V-MUX, MICRO PROCESSOR BASED Install: Weldon V-MUX 100% solid state microprocessor based multiplex system. -----	1.00
30-10-0110	----- ELECTRICAL CIRCUITS All electrical circuits: shall have wiring and circuit protection suitable to the demand and must meet the national electric code (NEC) wiring requirements, added on wiring (18 GA through 10 GA) color coded and stamped with code numbers for easy identification, SLX high temperature thermoplastic cross link wire used. SGX insulated cable used for all under hood / underbody battery and charging system cable. High temperature (375° f) thermoplastic loom used on all harnesses. -----	1.00
30-06-0126	----- ELECTRICAL COMPARTMENT (PDQ) - MULTIPLEX ELECTRICAL SYSTEM Electrical compartment / hinged door w/ (2) chrome locking lever latches/ located on the partition wall behind the attendant seat. -----	1.00
30-06-0325	----- FLASHER - MULTIPLEX ELECTRICAL SYSTEM Provide: Flasher within and programmed by the multiplex electrical system. -----	1.00
30-06-0350	----- FLASHING HEADLIGHTS - MULTIPLEX ELECTRICAL SYSTEM Headlights (high beams) shall be programmed through the multiplex system to alternate flash (wig-wag). -----	1.00
30-10-0190	----- GROUND FAULT CIRCUIT INTERRUPTER-GFCI Install: A 125 VAC, 20 AMP circuit breaker with ground fault circuit interrupter (GFCI) electronic ground leakage detection in the load center for the shoreline circuit. -----	1.00
30-06-0285	----- MODULE DISCONNECT - MULTIPLEX ELECTRICAL SYSTEM Install: In-Power disconnect to keep the module power switch engaged, after the ignition is switched to the "off" position. -----	1.00
30-06-0575	----- REVERSE -TRANSMISSION- FUNCTIONS - MULTIPLEX ELECTRICAL SYSTEM System programmed to provide activation for: rear outboard warning lights, rear side warning lights, rear scene lights, the rear side scene lights - when the transmission selector lever is placed into "reverse" position. -----	1.00

30-06-0150	----- SPARE CIRCUIT - MULTIPLEX ELECTRICAL SYSTEM Provide (1) spare 15-amp circuit. -----	1.00
30-06-0175	----- WIRING HARNESS CONNECTORS - MULTIPLEX ELECTRICAL SYSTEM Connect all wiring harnesses via quick connect circular plug connectors. -----	1.00
30-06-0300	----- VOLTMETER - MULTIPLEX ELECTRICAL SYSTEM Provide: (1) digital voltmeter on the master control console screen. -----	1.00
30-06-0026	----- WARNING DISPLAY - MULTIPLEX ELECTRICAL SYSTEM Install: digital warning display integrated into the cab display console, programmed through the multiplex system to provide visual and audible indication. -----	1.00
30-06-0225	----- EMERGENCY MASTER SWITCH - MULTIPLEX ELECTRICAL SYSTEM Supply: A single emergency master switch for activating all the emergency warning lights on the master control console screen, emergency master switch will activate the module power automatically, include an Emergency Master Menu button to allow access to individual warning light functions. -----	1.00
30-06-0250	----- CONTROL PANEL SWITCHES - MULTIPLEX ELECTRICAL SYSTEM Switches on the master control console and attendant control panel screens shall have dimmable perimeter backlighting. -----	1.00
30-06-0275	----- MODULE POWER SWITCH - MULTIPLEX ELECTRICAL SYSTEM Provide: A module power switch for the electrical system on both the Master Control Console and the Attendant Control Panel screens. -----	1.00
30-06-0101	----- ATTENDANT CONTROL PANEL (ACP) - MULTIPLEX ELECTRICAL SYSTEM Attendant Control Panel (ACP) contains a color micro processor screen, controls all equipment installed in the patient compartment. -----	1.00
30-06-0375	----- PARK OVERRIDE - MULTIPLEX ELECTRICAL SYSTEM Park override switch on the master control console screen, reactivates all lights disabled when the transmission is placed in the neutral/park position. -----	1.00
30-06-0400	----- LOAD MANAGER-SEQUENTIAL SWITCHING SYSTEM - MULTIPLEX ELECTRIC SYSTEM -----	1.00

	Load manager-sequential switching system controlled by the microprocessor based electrical system: emergency master button shall control the sequential switching of the emergency lights and/or other warning devices, load manager shall automatically shed non-critical electrical loads during low voltage conditions. -----	
30-06-0450	FRONT CLEAR DISABLE SWITCH - MULTIPLEX ELECTRICAL SYSTEM Activation of the switch on the master control console screen to disable all forward-facing clear warning lights. -----	1.00
30-06-0076	MASTER CONTROL CONSOLE (MCC) - MULTIPLEX ELECTRICAL SYSTEM Floor mounted Master Control Console (MCC) located in the cab, housing siren, color microprocessor display screen, controlling all the Emergency Warning functions, Patient Compartment lighting and module heat/ac functions. -----	1.00
30-06-0475	CURBSIDE SCENE LIGHTS ON WITH CURBSIDE DOOR The Curbside scene lights: programmed to activate when the Curbside door is in the open position. -----	1.00
30-06-0500	REAR SCENE LIGHTS ON WITH REAR DOORS OPEN Rear scene lights programmed to activate when the rear doors are in the open position. -----	1.00
30-06-0525	DISABLE SWITCH FOR REAR SCENE LIGHTS - MULTIPLEX ELECTRICAL SYSTEM Install: disable switch at the rear door area to disable the rear scene lights. -----	1.00
30-06-0550	DISABLE SWITCH FOR SIDE SCENE LIGHTS - MULTIPLEX ELECTRICAL SYSTEM A disable switch shall be installed at the curbside door area to disable the curbside scene lights. -----	1.00
30-06-0015	VISTA IV ACP - PUSH BUTTON Install: Weldon V-MUX Vista IV interface module / display screen mounted on an angled flip - down panel with chrome lever latches, in the patient compartment ACP area. -----	1.00
30-06-0010	VISTA IV MCC - PUSH BUTTON Install: Weldon V-MUX Vista IV interface module / display screen in the cab, operated through the use of push buttons. -----	1.00
30-10-0911	SYSTEM ACTIVE AND CHECK OUT LIGHTS - 10 MINUTES The check out light switch located at the curb and rear doors that will allow activation of the left LED angled	1.00

	lights prior to entering the module. The system shall be programmed to shut down automatically after 10 minutes unless the ignition is on.	
30-06-0050	----- DAYTIME RUNNING LAMPS - MULTIPLEX ELECTRICAL SYSTEM OEM Daytime Running Light headlights activated for daytime operation, when transmission is placed in drive. -----	1.00
30-10-0090	BATTERY VOLTAGE INDICATOR LIGHT- KUSSMAUL-LED BAR GRAPH Light Indicator - (Kussmaul - bar graph type) voltage indicator light on module near the shoreline inlet. See dwg #3 (Accurate battery Voltage read out is obtained when the vehicle is not started and shoreline is disconnected) -----	1.00
30-10-0915	SYSTEM AUTO ACTIVE WITH DOOR OPEN OR UNLOCK SIGNAL The system will auto activate when a door is opened or when a door unlock signal is received. -----	1.00
30-10-0585	USB - DUAL OUTLET, ONE (1) INTERIOR LOCATED ON CONSOLE Install: (1) dual USB port outlet, 5 volt / 2.1 amp, in the vehicle, located on the Master Control Console in the cab. -----	1.00
USBAA101	OUTLET, USB - ONE (1) DUAL - PRIMARY ACTION AREA One (1) dual USB port outlet, 5 volt / 2.1 amp, shall be installed in the vehicle, located on the streetside primary action area in the patient compartment. -----	1.00
125AA101	OUTLET, 125VAC - ONE (1) INTERIOR DUPLEX - LEFT WALL ACTION AREA One (1) 2-wire +plus ground 125 VAC duplex outlet in the street side wall in the primary action area. -----	1.00
125IC201	OUTLET, 125VAC - ONE (1) INTERIOR DUPLEX - RIGHT WALL One (1) 2-wire +plus ground 125 VAC duplex outlet on the right wall above the cabinet at the head end of the curbside seating area. -----	1.00
30-10-0258	INVERTER, VANNER - 1100 WATT, LIFESINE LSC 12-1100-DC CHARGER Install: Vanner LifeSine LSC 12-1100-DC watt inverter with battery conditioner / charger per drawing (non-hardwired). -----	1.00
12VAA101	OUTLET, 12VDC - ONE (1) - LEFT WALL ACTION AREA	1.00

	One (1) 12 VDC power point outlet shall be installed in the street side wall in the primary action area. The outlet shall be labeled, "12 VDC". A Schottky diode medical isolator shall be provided to protect the 12 VDC outlet.	
12VIC201	----- OUTLET, 12VDC - ONE (1) RIGHT WALL One (1) 12 VDC power point outlet in the right wall above the cabinet at the head end of the curbside seating area, labeled, "12 VDC". A Schottky diode medical isolator shall be provided to protect the 12 VDC outlet.	1.00
30-12-0007	----- RECEPTACLE SHORELINE INLET-SUPER 20 AMP, AUTO EJECT - RED COVER Install: Kusssmaul super auto eject shoreline inlet receptacle with red cover on module exterior (forward street side) near the driver's door, equipped with an integral dynamic disconnect.	1.00
30-10-0662	----- RADIO ANTENNA BASES - THREE (3) Must specify Antenna Termination Point(s) location: -Two (2) to curbside ACP at head of SB. -One (1) to cab console. Antenna Base, Install: one (1) additional base and coax, two (2) antenna bases shall terminate in standard location of the PDQ, (1) base require termination location(s) to be specified.	1.00
30-10-0295	----- LIGHT, ATTENDANT CONTROL PANEL AREA - TECNIQ SILHO-X LED - WARM WHITE/RED COMBO A Tecniq Silho-X 2.75" round warm white/red combo LED light with SS trim ring, shall be mounted above the left wall forward action area counter. The light shall be operated through the a button on the ACP Vista screen labeled "Attendant Light". (Braun #27230)	1.00
30-10-0310	----- LIGHT, LED ELECTRICAL COMPARTMENT -PDQ A 12 VDC light shall be located in the PDQ. The light shall be wired "battery-hot" to activate when the PDQ door is in the open position. The light shall be off when the door is in the closed position.	1.00
30-11-0103	----- LIGHTS, DOME LED (10) WHELEN SUPER LED Install: Ten (10) Whelen #LED (80COEHCR) dome lights, shall be installed. See dwg #9	1.00
30-06-0201	----- RADIO TIE-IN POINT - (1) 12V/40 AMP - CAB CONSOLE AREA Install (1) set of 12 volt/40 amp radio tie-in points in cab console: (1) battery hot, (1) ignition hot, (1) "grounded" stud rated max 250 amps.	1.00

30-06-0203	----- RADIO TIE-IN POINT - (1) 12V/400 AMP - PDQ Install (1) set of 12 volt/40 amp radio tie-in points in the PDQ: (1) battery hot, (1) ignition hot, (1) "grounded" stud rated max 400 amps. -----	1.00
Braun - Exterior Lighting		
Item Number	Name	Quantity
SR00109585	The warning light flash patterns shall be per the attached guide. -----	1.00
SR00109619	The V-Mux electrical system shall be programmed with the following features: *MOD Power to activate with Ignition. *Inverter to activate 5 seconds after boot up. *HVAC to automatically come on with last setting when MOD Power activated. *Interior cabinet lights to come on automatically with MOD Power - (Can be turned off with switch on Vistas) -----	1.00
SR00109620	There shall be six (6) Tecniq E10 white LED lights mounted on brackets underneath the module and cab. The lights shall turn on automatically when the vehicle is shifted into park. The lights may also be activated or disabled by a switch on the MCC Vista display screen labeled "Underbody Lights". (Braun #27245) -----	1.00
SR00109621	Six (6) Whelen M9 series super LED warning lights with chrome flanges on the module front in a "V" pattern; four (4) red w/clear lens, two (2) amber w/clear lens. Two (2) Whelen M6 series white super LED's with chrome flanges to be installed below the outer red M9's and one (1) Whelen M6 white super LED with chrome flange to be centered below condenser, per dwg #1. -----	1.00
SR00109623	Two (2) Whelen M9 series red super LED lights w/clear lens and chrome flanges shall be installed on the rear of the module at window level, one (1) on each side. Per dwg #2 *Lights to flash in high intensity with warning lights and low intensity brake override. -----	1.00
SR00109624	Four (4) Whelen M9 series red super LED lights w/clear lens -----	1.00
SR00109625	Install Whelen M7 amber Super LED rear intersection lights with clear lens and chrome flange IPOS. Lights to flash with turn signals when Emergency Master is not activated. -----	1.00
SR00109626	Whelen ION RED LED surface mount lights shall be installed on the rub rails. Four (4) on streetside, and four (4) on curbside for a total of eight (8) lights, per -----	1.00

	dwgs 3 & 4. Model #TLIR w/TIONFC chrome flange -----	
SR00109627	A Whelen model #TADF8 Red/Amber Eight DUO Super LED Traffic Advisor shall be mounted on the rear of the module above the doors. Reds & Ambers to flash with Primary warning lights. Ambers will also be controlled thru cab Vista as Traffic Advisor. Per dwg #2. -----	1.00
SR00109628	Three Whelen 600 Series LED Rota-Beam lightheads shall be installed on the front face of the condenser housing and one (1) 600 Series red LED Rota-Beam on each end of the condenser housing per dwg #1. There shall be two (2) 6RBCC white lights, and three (3) 6RBRC red lights. -----	1.00
SR00109629	Two (2) Whelen M9 series RED LED lights with clear lens and chrome flanges shall be installed on the rear kickplate per dwg #2. One each side centered below M6 lights. -----	1.00
SR00109636	One (1) pair of Whelen M6 LED amber turn arrows in chrome flanges shall be mounted on the REAR of the module below the upper M9 red warning lights per dwg #2. -----	1.00
SR00130524	Six (6) Whelen M9 super LED warning lights with chrome flanges shall be installed, three (3) on each side of module exterior per dwg. -----	1.00
30-06-0410	WARNING LIGHTS FLASH PATTERN SIGNAL ALERT 75 - MULTIPLEX ELECTRICAL SYSTEM The default flash pattern for the vehicle warning lights: Signal Alert 75. -----	1.00
ClearLENS	CLEAR LENSES ON ALL WARNING LIGHTS -----	1.00
GWLIO0004	LIGHTS GRILLE - 4 WHELEN ION LED Four (4) Whelen ION series super LED warning lights, with waterproof connectors shall be installed the grille area of the chassis. The lights shall operate from a switch on the master control console labeled "Flashers". -----	1.00
GWLC1R1R	GRILLE WARNING LIGHT LOCATION 1 - RED The warning light located on the grille in location 1 shall be red. -----	1.00
GWLC1R2R	GRILLE WARNING LIGHT LOCATION 2 - RED The warning light located on the grille in location 2 shall be red. -----	1.00
GWLC1R3R	GRILLE WARNING LIGHT LOCATION 3 - RED -----	1.00

	The warning light located on the grille in location 3 shall be red. -----	
GWLC4R	GRILLE WARNING LIGHT LOCATION 4 - RED The warning light located on the grille in location 4 shall be red. -----	1.00
VPTRN	V-PATTERN WARNING LIGHTS The front module warning lights shall be arranged in a staggered "V" pattern. Please reference drawing for depiction. -----	1.00
30-25-0122	LIGHTS, ICC / LED CLEARANCE - ON MODULE FRONT - TECNIIQ Install: (5) amber Tecniq LED (S33-AA00-1) clearance / ICC lights on the front of the module near the roof line per dwg #1. -----	1.00
30-25-4503	LIGHTS, FRONT MODULE TURN SIG - WHELEN M6 LED ARROWS AMBER Install (1) pair of Whelen M6 LED amber turn arrows in chrome flanges mounted on front of the module under the warning lights. -----	1.00
30-25-0123	LIGHTS, ICC / LED CLEARANCE - ON MODULE REAR - TECNIIQ Install: (5) red TECNIIQ LED (S33-RR00-1) clearance / ICC lights on the rear of the module near the roof line per dwg #2. -----	1.00
RCLM60001	LIGHTS REAR MODULE, UPPER CENTER - 1 WHELEN M6 LED One (1) Whelen M6 super LED warning light with chrome bezels shall be installed on the upper rear of the module, center location. The lights shall operate from a switch on the master control console, labeled "Flashers". -----	1.00
RCLCL1A	REAR CENTER MODULE LIGHT LOCATION 1-AMBER The warning light located on upper rear of the module in the center location shall be amber. -----	1.00
RSM60002	LIGHTS REAR SCENE - 2 WHELEN M6 LED Two (2) Whelen M6 super LED scene/load lights with chrome bezels shall be installed on the upper rear of the module. The lights shall operate from a switch on the master control console, labeled "Rear Scene Lights". -----	1.00
WLCL1R	WINDOW LEVEL LIGHT LOCATION 1 - RED The warning light located on rear of the module at window level, location 1 shall be red. -----	1.00

WLCLR2R	WINDOW LEVEL LIGHT LOCATION 2 - RED The warning light located on rear of the module at window level, location 2 shall be red. -----	1.00
30-26-3010	LIGHTS, REAR TAIL - WHELEN M6 LED STOP, TURN, BACK-UP Install: (1) pair each of Whelen M6 series LED stop/tail lights, turn lights, and back-up lights with chrome flanges on the rear of the module. -----	1.00
FILM7T0002	LIGHTS FRONT INTERSECTION - 2 WHELEN M7 LED W/15 DEGREE TILT HOUSING Two (2) Whelen M7 super LED warning lights, with water-proof connectors, shall be mounted in 15 degree tilt housings on the front chassis fenders, one (1) on each side. The lights shall operate from a switch on the master control console labeled "Flashers". NOTE: When vehicle is placed in park, the override switch must be on for intersection light(s) to remain on. -----	1.00
FILCLR1R	FRONT INTERSECTION LIGHT LOCATION 1 - RED The warning light located on front of the chassis fender in location 1 shall be red. -----	1.00
FILCLR2R	FRONT INTERSECTION LIGHT LOCATION 2 - RED The warning light located on front of the chassis fender in location 2 shall be red. -----	1.00
30-27-1102	LIGHTS, ICC / LED CLEARANCE - ON MODULE SIDE - TECHNIQ Install: (2) red Tecniq LED (S33-RR00-1) clearance/ICC lights, (1) red on each side at rear of the vehicle, flash with turn signal, per Dwg #3 and #4. -----	1.00
SWLCLR1R	SIDE WARNING LIGHT LOCATION 1 - RED The warning light located on side of the module, in outer location 1 shall be red. -----	1.00
SWLCLR2R	SIDE WARNING LIGHT LOCATION 2 - RED The warning light located on side of the module, in outer location 2 shall be red. -----	1.00
SWLCLR3R	SIDE WARNING LIGHT LOCATION 3 - RED The warning light located on side of the module, in outer location 3 shall be red. -----	1.00
SWLCLR4R	SIDE WARNING LIGHT LOCATION 4 - RED The warning light located on side of the module, in outer location 4 shall be red. -----	1.00
SSM90004	LIGHTS SIDE SCENE - 4 WHELEN M9 LED Four (4) Whelen M9 24 Diode LED scene lights with	1.00

chrome flanges shall be installed, two (2) each module side. These lights shall operate from switches on the master control console labeled "Left Scene Light" and "Right Scene Light".

Braun - Module Body Construction

Item Number	Name	Quantity
SR00109639	Curbside sliding door to be moved forward. (OSS #5 to be deleted.)	1.00
39-00-0005	AWS ALUMINUM CERTIFIED WELDERS	1.00
39-10-0003	CONNECTIONS, MODULE Bolt: to the chassis frame rail with (12) 5/8" -11 grade 8 bolts through OEM rubber insulating spacers installed on outriggers at twelve (12) separate locations (six each frame rail), providing noise insulation and easy removal for chassis replacement, mounting bolts to be properly torqued and secured with locktite, system used for fastening the module to the frame to be that approved by the chassis manufacturer.	1.00
40-00-0080	INSULATION - POLYURETHANE SPRAY FOAM The walls, ceiling, passage doors, outside storage doors, the entire underside of the module floor (except for mounting pads), the underside of the outside storage compartments, the wheel wells, and the underside of the curbside step area shall be completely foam - in - place insulated with nominal 3/4" thick sprayed on Class I, urethane foam for thermal and acoustical insulation. The insulation shall comply with FMVSS #302 flame spread requirements. The underside of the body shall be properly prepared to ensure adhesion before the spray insulation is applied.	1.00
39-00-0001	MODULE BODY CONSTRUCTION - SEAMLESS Module: fabricated entirely of parts cut and formed from .125" (minimum) thickness 5052-H32 flat aluminum sheet stock, using CNC machines capable of .010" repeatability. This is the only alloy that may be used for body parts that are welded together. Roll-cage type interior super-structure, aluminum partition and module welded together into a single unit, roof designed with a minimum 1.5" crown to facilitate water run-off. Floor, roof, sides, all exterior doors fabricated from .125" (minimum) thick flat aluminum sheet stock, exterior joints between the roof and side components continuous full seam welded the entire length of the module. All exterior body panel joints continuous full seam welded. No VHB bonding tape or other adhesives used in the construction of the ambulance module.	1.00

39-00-0002	SOLE SOURCE MODULE BODY CONSTRUCTION	1.00
Braun - Module Features / Exterior		
Item Number	Name	Quantity
SR00109589	Each outside storage compartment equipped with Ridgeback LED strip lighting / located one BLUE on the left side of the door opening and one WHITE on right side of door opening / activated by a magnetic switch / all STD OSS door openings / does not include the battery compartment, Lengths dependent on OSS dimensions. IPOS Five (5) compartments: OSS #1, #2, #3, #4, #4A	1.00
SR00109590	Two (2) Whelen aber mini LED lights shall be installed on the interior of all rear facing exterior compartment doors. The lights shall be located as follows: one (1) on each upper and lower outer corner. The lights shall random flash upon door opening. (does not include the battery door) Rear passage doors shall each have one (1) Whelen ION T-series amber LED light with clear lenses and chrome flanges installed at bottoms of doors only. (model #TLIA w/TIONFC chrome flanges)	1.00
SR00109638	Install an additional OSS compartment located between the # 4 outside storage compartment and the wheel well on the curbside of the module.	1.00
SR00109642	Curbside and rear entry door windows to be fixed (non-opening.)	1.00
SR00109643	An OSS #1A compartment shall be installed above OSS #1 to house the Inverter/Charger, suction pump, and other electrical components as needed. Ref dwg #3.	1.00
SR00109645	Oxygen Location - Locate cylinder in OSS #1. An E-Z O2 tank lift shall be installed on the door. This includes all necessary compartment changes and hardware, (heavier hinge, reinforced door w/tapping plates, wear plate, relocated shock mount bracket, door skin w/pre-punched drill pattern and instruction plate) *OSS #1 to be reduced in height to allow for OSS #1A above, per dwg #3.	1.00
SR00109646	Stairchair bracket with strap installed on OSS #3 door, per dwg. #3.	1.00
SR00109725	Install DUAL Exhaust Ventilators in standard location. Both vents will operate from a single switch on the ACP.	1.00
40-00-0009	ALUMINUM PARTS - MODULE EXTERIOR All unpainted exterior aluminum parts to be bright dip anodized after fabrication to retain the finish and	1.00

	increase corrosion resistance. -----	
40-00-0010	CORROSION MINIMIZATION - MODULE All module contact with dissimilar metals shall be minimized with the use of nylon screw-hole inserts to provide hinge to door isolation with the module body, polypropylene strip hinge Isolation, polyethylene backed rubber tape, ceramic coated stainless steel hinge bolts, and ECK brand corrosion inhibitor spray. -----	1.00
40-00-0020	DOOR CONSTRUCTION - GASKET PLACEMENT All exterior hinged module doors shall be constructed in an inverted pan-formed design. The pan shall be constructed from .125" thick 5052-H32 flat sheet aluminum. The exterior door skin shall be constructed of .190" thick aluminum and welded to the pan. Door gaskets shall be attached to the interior side of the door skin on the top, bottom and outer edge of the door. The gasket on the hinge side of the door will be attached to the door frame. -----	1.00
40-00-0060	EXTERIOR COMPARTMENTS - SWEEP-OUT Exterior module compartments: a sweep-out design to aid in facilitation of the purchaser's routine care and cleaning of the vehicle. All exterior compartment floors, with the exception of the front ALS compartment to be constructed to be flush with the bottom door frame. -----	1.00
40-00-0030	EXTERIOR COMPARTMENTS DESIGN All exterior compartments shall be vented and include: sound absorbing slip resistant polyurethane material sprayed on the inside of all compartments and compartment shelving, slide out trays and closeouts, baffled seep holes provided to prevent water from splashing or seeping into the exterior compartments, full-length, two-way adjustable, stainless steel hinges on all exterior compartment doors with 3/16" stainless steel hinge pins, compartment doors installed, flush with the module body, when double doors are provided, each door to have exterior handle, but only the forward door lockable, rearward door is secured when forward door is locked), all exterior compartments and passage doors keyed alike, lockable Eberhard "free-floating" type chrome plated handles with rotary locks. gasket installed under each handle to protect the paint; drip rails installed above all exterior compartment doors. -----	1.00
40-00-0050	EXTERIOR COMPARTMENTS, VENTING (9) square inches (minimum) of venting inside #1, #2, #3, & #4 exterior storage compartments to provide for	1.00

	easier closure of the compartment doors. -----	
40-00-0055	EXTERIOR COMPARTMENTS, VENTING - OXYGEN STORAGE (9) square inches (minimum) of venting provided in the exterior oxygen storage compartment, to dissipate any leaking oxygen gas. -----	1.00
40-00-0070	HANDLES, EBERHARD - CHROME FREE FLOATING TYPE Install: Eberhard #EMC-1-2110 chrome "free-floating" handles on each exterior module door, large enough to accommodate a gloved hand. -----	1.00
40-10-0072	LOWERED MODULE SIDES Module sides to be as low as possible and still comply with KKK-1822-F ramp break over angle. -----	1.00
40-10-0321	STEPWELL, CURBSIDE DOORWAY - MID STEP AREA Install: aluminum diamond plate step well and mid-level step in curbside doorway threshold area. -----	1.00
40-00-0091	THRESHOLD, STAINLESS STEEL - ALL OSS STORAGE COMPARTMENTS Each exterior storage compartment with a hinged door: stainless steel lower threshold at the door opening to protect the paint. -----	1.00
40-00-0082	SOUND DEADENING PACKAGE Apply: An acoustic coating - entire floor, left wall, ceiling, left and right panels forward of the partition to be covered at the manufacturers recommended thickness. -----	1.00
40-00-0085	COATING, CERAMIC THERMAL Apply: Temp-Coat ceramic thermal barrier coating to the interior of the module roof after the spray foam application, to meet or exceed the manufacturer's recommended thickness. -----	1.00
40-10-0340	STONE GUARDS, MOD FRNT -ANODIZED DIAMOND PLATE Install: anodized aluminum diamond plate stone guards on module front, (1) each side. -----	1.00
40-10-0030	DOCK BUMPERS, REAR Install rear dock bumpers. -----	1.00
40-10-0066	DOOR SLIDING - MODULE CURBSIDE PASSAGE Install EZ Glide curb door. -----	1.00
40-10-0088	DOORS - REAR PASSAGE -----	1.00

	Patient compartment rear door opening: doors flush without a protruding flange or lip, right rear passage door lockable, chrome exterior handle, left rear door non-locking, chrome exterior handle, all handles installed with a gasket, hinge full length stainless steel with a 3/16" stainless steel hinge pin, two-way adjustable, each rear door two-point slam action automotive type rotary latching system to the body, right rear door lock to the body at the top and bottom, not to left rear door, doors .213" steel door latch activator rods with clevis adjusters, doors lockable from inside and outside, shut on molded, air-core, automotive type door seals to prevent water from leaking into vehicle interior. -----	
40-10-0130	EMERGENCY RELEASE LEVER, REAR PATIENT PASSAGE DOORS Install emergency release lever, attached to each rear passage door latch to be free-floating from the interior door linkages. -----	1.00
40-10-0103	FENDERETTES - POLISHED ALUMINUM Install: Polished aluminum fenderettes around the rear wheel well openings. -----	1.00
40-10-0119	HOLD-OPEN - REAR DOORS - GRABBERS Install: door grabbers (1 pair) with hard rubber inserts on rear doors. -----	1.00
40-10-0182	LICENSE PLATE HOLDER - CPI CAST RECESSED MODULE REAR CENTER KICKPLATE/THRESHOLD WITH DUAL LED LIGHT Install: Cast products license plate holder on rear of the module below doors, to be recessed into module, to have dual Whelen Mini-LED lights, to activate with chassis headlamp switch. (CPI # LP0002-1-C-CHA). -----	1.00
40-10-0204	MUD FLAPS, REAR - BLACK RUBBER FIBERGLASS REINFORCED - THREE COLOR Install black rubber, fiberglass reinforced mud flaps with a minimum 1/4" thickness bolted to underside of module behind rear wheels, to provide adequate coverage of rear dual wheels of the chassis, mud flaps to be (3) color with the Manufacturers Logo. -----	1.00
40-10-0266	REAR STEP/BUMPER -FLIP-UP CENTER SECTION - STAR PUNCHED AND ANODIZED Affix: rear bumper to chassis frame, constructed with a hinged center section, (2) steel braces to secure step to chassis frame, outer 17" on each end of bumper constructed from heavy gauge stamped polished stainless steel bumper parts, to provide smooth	1.00

	rounded corners, step constructed of star punched .125" thick aluminum diamond plate, (2) rear LED step illumination lights provided. All diamond plate surfaces to be anodized; strip of black PVC installed on face of step.	
40-10-0381	----- TOW HOOKS, MODULE REAR Secure: fasten (2) tow hooks in rear step area to rear step braces.	1.00
40-10-0283	----- RUB RAILS, ANODIZED ALUMINUM, "C" CHANNEL Install: anodized aluminum "C" channel rub rails on lower sides of body below outside compartment sill areas, rub rails to be offset 3/16" from body.	1.00
40-00-0021	----- DOOR SKINS, OUTSIDE STORAGE COMPARTMENTS - SMOOTH ALUMINUM INTERIOR SKINS Interior door skins for all outside storage compartments constructed of (.090) smooth aluminum panels (exclude battery compartment door, if so equipped), no diamond plate material is to be used on any portion of the interior side door skins.	1.00
OS2LIBSTD	----- OSS #2 - STREETSIDE CENTER OSS #2 streetside center, hinged door with spring-loaded gas cylinder, locking handle installed on the exterior of the door.	1.00
OS2LIBOP1	----- OSS #2 - (1) ADJUSTABLE SHELF OSS #2 streetside center, with one (1) adjustable shelf.	1.00
OS2SHELF1	----- OSS #2 - SHELF ONE (1) ADJUSTABLE WITH TRACK Outside storage compartment #2 shall contain one (1) adjustable shelf with track.	1.00
OS4LIBSTD	----- OSS #4 - CURBSIDE REAR OSS #4 curbside rear, hinged door with spring-loaded gas cylinder, locking handle installed on the exterior of the door.	1.00
OS4LIBOP3	----- OSS #4 - BACKBOARD AND (2) ADJUSTABLE SHELVES WITH FIXED DIVIDER OSS #4 curbside rear, with one (1) fixed vertical divider for backboard/scoop stretcher storage on one side and two (2) adjustable shelves on the other.	1.00
OS4DIV1	----- OSS #4 - FIXED DIVIDER One (1), fixed divider with sprayed on polyurethane material shall be provided and installed in outside storage compartment #4 per dwg. #4.	1.00
OS4SHELF2	----- OSS #4 - SHELVES TWO (2) ADJUSTABLE WITH TRACK	1.00

	Two (2) adjustable shelves with track in outside storage compartment #4. -----	
OS5LIBDEL	OSS #5 - DELETE OUTSIDE STORAGE OSS #5 (curbside forward) door shall be deleted from module. -----	1.00
OS5LIBOP4	OSS #5 - DOOR DELETED FROM MODULE OSS #5 (curbside forward) door shall be deleted from module. -----	1.00
Braun - Module Interior / Patient Compartment		
Item Number	Name	Quantity
SR00109649	Left wall upper #1 cabinet to be reduced in width due to widened CPR seat and dual exhaust vent. Cabinet to have a single, LEFT-hinged polycarbonate door installed with two (2) locking lever latches and one (1) adjustable shelf. Per dwg #5. -----	1.00
SR00109652	The left wall, interior upper cabinet (#2), above the attendant control panel: (1) set of sliding polycarbonate doors attached to a flip-up restocking frame with gas filled hold-open shocks / (1) adjustable shelf /doors with full length handles with the outer most sliding door to have handles on both ends. -----	1.00
SR00109653	Left wall cabinet #3 has been modified (height) due to the height of OSS #3 increasing. Cabinet will have inside/outside access. Cabinet is to be built per dwg. #5 dimensions. Cabinet is to be enclosed by a set of hinged polycarbonate doors. Doors are to be secured with chrome locking lever latches. Per dwg. #5. (NO SQUEEZE LATCHES) -----	1.00
SR00109654	Upper front wall cabinet #1 has been relocated and modified due to the curb forward door design. Cabinet is to be located above the pass through window per dwg. #7 location. Cabinet is to be built per dwg. #7 dimensions. Cabinet will not have any shelves. Cabinet is to be enclosed by a set of sliding polycarbonate doors. Per dwg. #7. -----	1.00
SR00109655	The standard lower front wall cabinet has been deleted due to the curb door forward design. Install a cabinet below the pass through opening that faces the curb door. Cabinet is to contain a Medi-Kool dual temp vertical drug storage cabinet with right hinged doors. The compressors for the units will be on the rear. Each cabinet is to have internal dimensions per dwg. #7. Controls for the cabinets are to be located per dwg. #7. A CompX 300 Series eLock shall be installed on the upper cabinet. Cabinet will have a recessed aluminum	1.00

	countertop. Countertop will extend partially into the pass through window opening. Per dwg. #7. -----	
SR00109656	Install a cabinet at the head of the squad bench. Cabinet is to have a total of three (3) drawers and all drawers are to be built per dwg. #6 dimensions. The upper drawer will open into the bench seat and have a hinged acrylic writing surface. Drawer will be secured with a Southco stainless steel flush pull locking latch. The middle drawer will open into the aisle and be secured with a Southco stainless steel flush pull locking latch. The lower drawer will open into the aisle and will be a waste drawer with a standard size trash can and sharps container. Drawer will be secured with a Southco stainless steel flush pull locking latch. The cabinet will have a recessed aluminum countertop. Per dwg. #6. -----	1.00
SR00109657	Two (2) cabinets installed on the curbside above squad bench: enclosed by (1) set of top hinged polycarbonate doors with friction hinges / chrome locking lever latches per dwg #6. There shall be a minimum of 43" of headroom below the cabinet. (Cabinet option not compatible with angled lighting above bench area. Ceiling IV Hangers will be relocated) -----	1.00
SR00109661	Install ProAir High Performance IW-3856 110/12 VOLT AC/Heat Core with brushless blower motor in the upper front wall IPOS. 110V Heat/AC to be wired to separate 20 amp super Auto-eject with Red Cover on streetside, per dwg #3. Electrical componets will be located in OSS #2. (*NOTE: 20 Amp Shoreline OK'd by Brian H.) A 206 dual coil/dual port condenser shall be installed on the front of the module. The condenser shall be top center mounted with aluminum mounting brackets. Condenser and brackets are to be painted to match the module. Condenser to be located per dwg #1. Install a 313 110V compressor mounted under the vehicle. All 110/12V components are to be installed on the ceiling of OSS #2. *HVAC controller to be moved to curbside at head-end of SB per dwg #5. -----	1.00
SR00109664	A rear facing Valor attendant seat shall be installed at the head of the patient cot. The seat shall be equipped with a sliding swivel base and incorporate an integral child safety restraint system. The seat shall be KKK-A-1822F Change Notice 8 compliant with 4 pt harness style shoulder / seat belt and conform to all applicable FMVSS and SAE J3026 requirements. Documentation from a certified independent testing facility shall be required stating the seat has passed SAE J3026 requirements and tested in accordance with SAE J2917, -----	1.00

	Occupant Restraint and Equipment Mounting Integrity – Frontal Impact System-Level Ambulance Patient Compartment and SAE J2956, Occupant Restraint and Equipment Mounting Integrity – Side Impact System-Level Ambulance Patient Compartment. The seat shall be padded and covered with color coordinated, cushioned vinyl. *Department Logo to be embroidered in headrest. Seat to mounted as far forward in module and as close as possible to counter while still allowing rotation of the seat. Per dwg. #9.	
SR00109665	Attendant seat to be centered with cot per dwg #9. Swivel attendant seat mounted as far forward in the module and as close as possible to counter while still allowing rotation of the seat while it is in the neutral position.	1.00
SR00109666	CPR seat area to be widened per dwg #5. An EVS Backpack 2160WM backrest and seatbelt system to be installed CENTERED in CPR seat area.	1.00
SR00109723	The 12 VDC SSCOR electric vacuum pump to be installed in OSS #1A compartment (must use SSCOR pump and tubing)	1.00
SR00109726	Install One (1) Ohio Medical flush mounted, quick release oxygen outlet in the ceiling above the cot in the center mount position, IATS. Reference dwg #9 for exact location.	1.00
SR00109746	An ABS three (3) - box glove dispenser unit, with a clear acrylic hinged access panel with three (3) cut-outs, shall be provided on the front wall just inside the curbside entry door, per dwg #7. (holder to accommodate three (3) 5.375" wide x 10.125" long x 3.25" deep glove boxes)A 1/4" turn latch will be installed on the face of the glove box access panel.	1.00
SR00109747	A hinged polycarbonate door shall be installed for inside/outside access into OSS #4 per dwg #6. Door to be hinged on the RIGHT with two (2) locking lever latches installed. (NO Squeeze Latches.)	1.00
SR00109748	Install a left-hinged aluminum door on upper front wall to access dead space behind bulkhead. A flat mounting plate is to be installed inside the opening for mounting location for Brigade DVR. A locking lever latch to be installed on door. Per dwg #7.	1.00
SR00109749	Recessed suction bucket to be reduced in height to allow installation of a slide-out drawer w/hinged acrylic	1.00

	writing surface, per dwg #5. -----	
50-51-1001	CABINET CONSTRUCTION - INTERIOR - ALUMINUM All interior cabinets shall be constructed of .090" thick welded aluminum. -----	1.00
50-60-0220	EMBLEMS / SIGNS - REAR PATIENT COMPARTMENT (2) "No Smoking / Oxygen Equipped / Fasten Seat Belts" signs: (1) sign installed in the cab, (1) above the oxygen outlets in the patient compartment street side cabinet. -----	1.00
50-60-0300	FLOOR CONSTRUCTION- PATIENT COMPARTMENT, NON-WOOD COMPOSITE Sub-floor in the patient compartment: constructed of .125" thick aluminum over .125" and .190" thick reinforcing hat sections and mounting laterals, aluminum sub-floor covered with a 3/4" non-wood composite material, all corner molding, edging and trim anodized aluminum or stainless steel and sealed to prevent fluids from seeping under the cabinets. -----	1.00
50-60-0301	FLOORING - COVE Patient compartment floor radius: coved with pre-formed floor coving material, installed behind the vinyl floor covering, along both the street side and curbside walls. -----	1.00
50-60-0391	HEADLINER - REAR PATIENT COMPARTMENT Headliner in the patient compartment shall be one-piece, seamless, .090 thick aluminum finished with sprayed-on multi-use polychromatic coating. -----	1.00
50-51-1013	HOLD OPENS FOR INTERIOR DOORS All interior cabinets with doors less than 6" tall shall have friction hinges as hold opens for door(s). Doors 6" and taller shall be designed using gas shocks as hold opens for the door(s). -----	1.00
50-60-0660	PADDED EDGING PROTECTION Install: padded corner edging where necessary on exposed corners and edges in the patient compartment for patient and attendant protection. -----	1.00
50-00-0202	ROUNDED INTERIOR CORNERS Interior vertical edges: rounded/padded corners in the following locations: forward and aft edges of the CPR seat, the wall at the aft end of the squad bench, the partition opening cabinet edges and the upper front wall cabinet. -----	1.00
50-51-1011	RECESSED ADJUSTABLE SHELF TRACK - CABINETS Install recessed adjustable shelf track in cabinets.	1.00

50-51-5001	----- UPHOLSTERY - PATRIOT PLUS CHARCOAL #8605 All cushions, head pads and seating surfaces shall be covered with Patriot Plus Charcoal #8605 -----	1.00
50-60-0661	INTERIOR MODULE PADS Vinyl upholstered, foam cushioned head/back pads shall be installed as follows: the lower edge of the upper front wall cabinet (above the partition doorway or window), above the rear doors, above the side door, and on the street side wall behind and on each side of the CPR seat. The pads shall be covered with a flame-retardant color coordinated vinyl upholstery material. -----	1.00
50-51-6003	LONPLATE II, NON-SLIP EMBOSSED SM. GRID - GUNMETAL #424 The floor in the patient compartment shall be covered with Lonseal brand "Lonplate II" non-slip; small grid (embossed) Gunmetal #424. -----	1.00
50-51-2002	CABINET DOORS - CLEAR POLYCARBONATE All cabinet doors shall be clear polycarbonate material / installed in aluminum track lined with PPL inserts / An edge mounted aluminum handle shall be installed on each sliding cabinet door. -----	1.00
50-51-3001	CABINETS/ WALLS - POLYCHROMATIC COATING - MARBLE STONE Headliner, walls, cabinet faces, and cabinet interiors MultiSpec color to be #99-7371 Marble Stone -----	1.00
IS-CNT-RAL	COUNTER TOP, RECESSED ALUMINUM Install: 1.25" recessed aluminum countertop on the primary action area with all countertop work surfaces finished with multi-use poly-chromatic spray coating to match cabinets, prior to being clear coated. -----	1.00
50-51-4002	COUNTERTOP - RECESSED ALUMINUM - POLYCHROMATIC SPRAY COATED Recessed countertop with MultiSpec color to match cabinets. -----	1.00
50-01-0408	LATCHES, CABINET, CN10 COMPLIANT AS APPLICABLE - INCLUDING RADIO CABINET The ACP (attendant control panel) door, the PDQ (power distribution quarters) door, and the radio cabinet door shall be secured with chrome locking lever latches/ all remaining interior hinged cabinet doors with center squeeze latches/all interior drawers with locking flush pull latches. -----	1.00

50-10-0229	LEFT WALL - ATTENDANT CONTROL PANEL - WITH FLAT AREA A Weldon Vista Control Screen shall be mounted on a hinged access panel and secured with two (2) latches. The panel will be located to the immediate right of the attendant's seat. The forward portion of the panel will contain a flat area that may be used for future radio mounting, etc. -----	1.00
IC1LIBOP1	NO #1 CABINET No Cabinet Behind Squad Bench -----	1.00
50-60-0720	STAINLESS STEEL WALL PROTECTION - SQUAD BENCH BASE Install stainless steel panel on the face of the squad bench base, and extend up to the bottom of the squad bench lid. -----	1.00
IF3PDQ	CABINET - PDQ The Power Distribution Quarters (PDQ) shall hold electrical components, (i.e., power distribution nodes, circuit breakers, etc.), hinged door with (2) chrome locking lever latches, located on the partition wall behind the attendant seat. -----	1.00
50-60-0001	AIR PURIFICATION SYSTEM, ULTRAVIOLET Install a Ultraviolet Air Purification System within the heater/AC. -----	1.00
IF3LIBOP1	CABINET - VENTED RADIO CABINET WITH PDQ ABOVE Front wall: PDQ compartment located to the left, and a vented radio cabinet below the PDQ. -----	1.00
IF3LIBRAD	CABINET - FRONT WALL, LOWER BELOW PDQ (SINGLE VENTED DOOR) A radio cabinet with a vented, hinged aluminum door, secured by a chrome locking lever latch, located on the front lower left wall, door to open towards rear of the module. -----	1.00
IF4LIBOP1	PASS-THROUGH WINDOW OPEN TO THE CAB Window opening, pass-through from cab to module. -----	1.00
50-20-0507	PASS THROUGH - CAB TO MODULE, WINDOW OPENING A window opening: provided in the rear of the cab to accommodate pass-through communications to the patient compartment, bellows provided to connect the cab to the module. -----	1.00
50-20-0508	PASS THROUGH - CAB TO MODULE, LOCKABLE SLIDING WINDOW Install: A lockable sliding window in the cab over the	1.00

	pass thru opening to the module. -----	
50-50-0115	SEATING - ATTENDANT - EVS HiBAC, SWIVEL BASE CN8 COMPLIANT A rear facing EVS HiBAC attendant seat shall be installed at the head of the patient cot. The seat shall be equipped with a sliding swivel base and V4 belting. The seat shall be padded and covered with color coordinated, cushioned vinyl. -----	1.00
50-61-0005	ASSIST HANDLES, (2) 'V-BARS', (4) HANDLES, STAINLESS STEEL, YELLOW ANTIMICROBIAL (6) stainless steel, yellow antimicrobial assist handles: (1) on the streetside to left of cabinet #4, (1) at the curbside doorway, (1) on the top left curbside sliding door, (1) to left of rear passage door, (2) stainless steel, yellow antimicrobial V - Bars one (1) on each rear passage door. -----	1.00
50-60-0730	DOOR PANELS - MODULE PASSAGE DOORS - FULL LENGTH ALUMINUM - W/ACCESS PANELS Interior rear and curbside passage door panels to be full length aluminum, Multi-Spec sprayed to match interior color and contain removable latch access panel per dwg. # 6 & # 8. (Total 3). -----	1.00
50-60-0325	NO - GLOVE, DISPENSER - CURBSIDE ABOVE DOOR Delete the glove box (3) dispenser above the curbside door. -----	1.00
50-60-0332	GLOVE DISPENSER - (1) BOX - EACH REAR DOOR - TOTAL TWO (2) A single box glove dispenser unit, with a clear acrylic hinged access panel with cut-out, shall be recessed on the rear passage doors, one each door per dwg #8. -----	1.00
50-60-0352	GRAB RAILS, 1-1/4" DIAMETER, ANTI-MICROBIAL(YELLOW) 96" AND 64" (2) 1-1/4" diameter stainless steel, yellow Anti-microbial grab rails installed on the ceiling of the patient compartment: (1) 64" rail over the squad bench area / (1) 96" rail over the patient cot area. The 96" grab rail will be attached to the ceiling with (3) mounting brackets. -----	1.00
50-60-0431	IV HANGERS - CEILING RECESSED - CAST PRODUCTS #IV2008-1 (2) Two (2) Cast Products #IV2008-1 recessed; dual ceiling I.V. hangers shall be provided per Dwg #9 locations. -----	1.00
50-60-0640	OXYGEN SYSTEM, ELECTRIC - MULTIPLEX ELECTRIC SYSTEM	1.00

	A 12 VDC controlled electric O2 system operated through the v-mux multiplex electrical system shall be provided and installed.	
50-60-1602	OXYGEN OUTLET (2) LEFT WALL - OHIO MED - ACTION AREA Two (2) Ohio Medical flush mounted; quick release wall outlets shall be installed in the forward street side cabinet action area. Per dwg #5	1.00
50-60-0629	FLOW METER, OXYGEN - THORPE STYLE One (1) Thorpe style oxygen flow meter (15LPM) shipped loose with the completed vehicle.	1.00
50-60-0761	STAINLESS STEEL WALL PROTECTION - INTERIOR STREETSIDE A brushed stainless steel panel shall be provided on the street side wall from the bottom of the CPR seat.	1.00
Braun - Optional Patient Compartment Items		
Item Number	Name	Quantity
SR00109644	An Aeroclave nozzle shall be installed on rear head pad above doors per dwg #8. Nozzle to be plumbed to OSS #3, right wall, down low and toward back of compartment to a flush-mounted ADP-Ex Connector with Hose Kit.	1.00
50-60-0099	CLOCK - FRANKLIN DIGITAL - REAR HEAD PAD Install: a Franklin digital clock in the head pad above the rear doors per dwg. #8	1.00
50-62-0426	COT FASTENER - STRYKER POWER LOAD - CENTER POSITION CN8 COMPLIANT Install Dealer-supplied Stryker PowerLOAD; cot not included. Install transfer relay and breaker to allow system to charge only when the shoreline is plugged in or when the system is active.	1.00
30-10-0432	LIGHT, STEPWELL - CURBSIDE DOORWAY - MINI LED SURFACE MOUNT Install: Whelen Mini-LED light, stepwell - side doorway, See Dwg #7	1.00
Braun - Paint / Graphics		
Item Number	Name	Quantity
SR00109789	Red/Black reflective chevron striping 6" wide inverted "V" shall be installed on the complete rear of the module, except the windows, including the stainless steel kickplate below the rear doors.	1.00
SR00109790	All rear-facing OSS and rear entry doors to have full-	1.00

	coverage Red/Black reflective chevrons applied to match rear of module. -----	
SR00109791	Install Red/Black 6" Reflective Chevrons on face of OEM front bumper. -----	1.00
SR00109792	Install black reflective material in rub rails -----	1.00
SR00109793	Graphics are to be per attached layout -----	1.00
60-01-0001	PAINT PROCEDURE All non-anodized aluminum module body surfaces: completely chemically steam cleaned, filled with premium body filler as needed, sanded smooth and primed with an epoxy primer and then primed again with a high solid primer, cured primer surfacer shall be DA sanded with 320 grit and cleaned. A high solid primer shall then be applied, where needed, as a sealer. -----	1.00
60-01-0005	STANDARDS AND SPECIFICATIONS FOR VEHICLE PAINT APPEARANCE Adhere to Standards and Specifications for Vehicle Paint Appearance. -----	1.00
60-10-0108	CAB - OEM PAINT Ford race red -----	1.00
60-01-0004	BUFFING, PAINT - MODULE The paint on the module sides shall be buffed to a high shine using a recommended paint buff system. -----	1.00
60-09-0101	PAINT MOD ALL ONE SOLID COLOR, PLUS CLEAR COAT Ford race red The entire module shall be sprayed one-color and then clear coated. -----	1.00
60-30-0200	REFLECTIVE - DOOR REFLECTIVITY Install reflective material (25" x 2.5" red/silver chevron style), on the lower interior stainless steel panel of each rear door and hinged side door. NOTE: If a sliding side door is provided, install a 1.50" x 40.00" white reflective stripe on the rear facing edge. -----	1.00

Braun - Vehicle Manuals

Item Number	Name	Quantity
80-20-0001	VEHICLE MANUALS (1) PACKAGE SET One (1) Delivery Manual Package shall be supplied with the vehicle, and shall include the following items: Ambulance manufacturer parts, service, and operation manuals, OEM chassis owner's guide, complete 12 VDC and 125 VAC wiring schematics for all included standard and optional systems, Multiplex Electrical system programming - electronic media	1.00

90-10-0007

STATEMENT OF LIMITED WARRANTY NEW
AMBULANCES

1.00

ORDINANCE NO. _____

**AN ORDINANCE AUTHORIZING THE MAYOR AND THE CITY CLERK TO
ENTER INTO AN AGREEMENT WITH PINNACLE EMERGENCY
AMBULANCES, LLC, FOR THE PURCHASE OF A 2023 BRAUN
AMBULANCE, IN THE AMOUNT OF THREE HUNDRED FIFTY-EIGHT
THOUSAND FOUR HUNDRED SIXTY-SIX DOLLARS (\$358,466.00);
WAIVING THE REQUIREMENT OF COMPETITIVE BIDDING; AND FOR
OTHER PURPOSES.**

WHEREAS, the City of Bentonville Fire Department requires a 2023 Braun Ambulance in order to complete the replacement of all front-line ambulances to the new safety standards for the Fire Department and maintain consistency within the fleet for patient care and operational needs;

WHEREAS, this is a sole source item as this vendor is the only provider of this ambulance and soliciting bids is therefore not feasible; and

WHEREAS, this purchase will be made using budgeted funds in the amount of three hundred fifty-eight thousand four hundred sixty-six dollars (\$358,466.00).

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

Section 1: That the Mayor and City Clerk are hereby authorized to enter into an agreement with Pinnacle Emergency Ambulances, LLC, for the purchase of a 2023 Braun Ambulance, in the amount of three hundred fifty-eight thousand four hundred sixty-six dollars (\$358,466.00);

Section 2: Because this is a sole source item, an exceptional circumstance exists, and it would be neither practical nor feasible to advertise for competitive bidding so that requirement is herein waived;

Section 3 - Severability Provision: If any part of this Ordinance is held invalid, the remainder of this Ordinance shall continue in effect as if such invalid portion never existed; and

Section 4 - Repeal of Conflicting Ordinances: All Ordinances, Resolutions, or Orders of the City Council, or parts of the same, in conflict with this Ordinance are repealed to the extent of such conflict.

PASSED AND APPROVED this _____ day of _____, 2022.

APPROVED:

STEPHANIE ORMAN, Mayor

ATTEST:

KIRBY ROMINES, City Clerk



Agenda Item Form

Date of City Council Meeting	8/23/2022
Department	ENGINEERING
Submitted by	TRACY BILLINGS
Phone	(479) 696-0229

Item Type: (Check Applicable Item Type)					
☐ Budget Adjustment	☐ Change Order	☐ Informational	☒ Ordinance	☐ Resolution	☐ Bid Award

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

Public hearing and ordinance vacating Street Right of Way and establishing a Utility Easement requested by Diana Gibson at 729 NE A Street, Demings 2nd Addition (VAC22-0008).

Estimated Cost	
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Is this Item Budgeted?	☐ Yes ☐ No
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If no, please explain how item will be funded (briefly explain in space below) :

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Legend

Easement Vacations

Representation: THECAN.DBO.Easement_Vacations_Rep

Utility Dedication



VAC22-0008
PROPOSED UTILITY EASEMENT (3)



ORDINANCE NO _____

ORDINANCE VACATING RIGHT OF WAY AND ESTABLISHING A DRAINAGE AND UTILITY EASEMENT LOCATED IN DEMINGS 2ND ADDITION, BLOCK 24 LOT 8, TO THE CITY OF BENTONVILLE, ARKANSAS, BENTON COUNTY ARKANSAS.

WHEREAS, a petition was filed by Diana Gibson, with the City Council of the City of Bentonville, Arkansas, asking the City Council to vacate a Right of way and establish a public utility & drainage easement located in the City of Bentonville, Benton County, Arkansas, which portion is more particularly described as follows:

PLATTED ALLEY FILED AT BOOK B, PAGE 24, DEMINGS 2ND ADDITION, BENTONVILLE, BENTON COUNTY, ARKANSAS BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

POINT OF BEGINNING AT THE NORTHEAST CORNER OF LOT 13, BLOCK 24, FILED IN BOOK B OF PAGE 24; THENCE N 67°58'35" W 239.77 FEET; THENCE N 23°37'20" E 20.01 FEET; THENCE S 67°58'36" E 239.74 FEET; THENCE S 23°32'08" W 20.01 FEET TO THE POINT OF BEGINNING, CONTAINING 161 SQ FT, .0037 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 and drainage easements is reserved for the city designated as follows:

PLATTED ALLEY FILED AT BOOK B, PAGE 24, DEMINGS 2ND ADDITION, BENTONVILLE, BENTON COUNTY, ARKANSAS BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

POINT OF BEGINNING AT THE NORTHEAST CORNER OF LOT 13, BLOCK 24, FILED IN BOOK B OF PAGE 24; THENCE N 67°58'35" W 239.77 FEET; THENCE N 23°37'20" E 20.01 FEET; THENCE S 67°58'36" E 239.74 FEET; THENCE S 23°32'08"

W 20.01 FEET TO THE POINT OF BEGINNING, CONTAINING 161 SQ FT, .0037 ACRES MORE OR LESS.

Section 2: Concurrently, The City of Bentonville Arkansas establishes a permanent utility and drainage easements 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:

PLATTED ALLEY FILED AT BOOK B, PAGE 24, DEMINGS 2ND ADDITION, BENTONVILLE, BENTON COUNTY, ARKANSAS BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

POINT OF BEGINNING AT THE NORTHEAST CORNER OF LOT 13, BLOCK 24, FILED IN BOOK B OF PAGE 24; THENCE N 67°58'35" W 239.77 FEET; THENCE N 23°37'20" E 20.01 FEET; THENCE S 67°58'36" E 239.74 FEET; THENCE S 23°32'08" W 20.01 FEET TO THE POINT OF BEGINNING, CONTAINING 161 SQ FT, .0037 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 _____, 2022, 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**



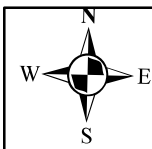
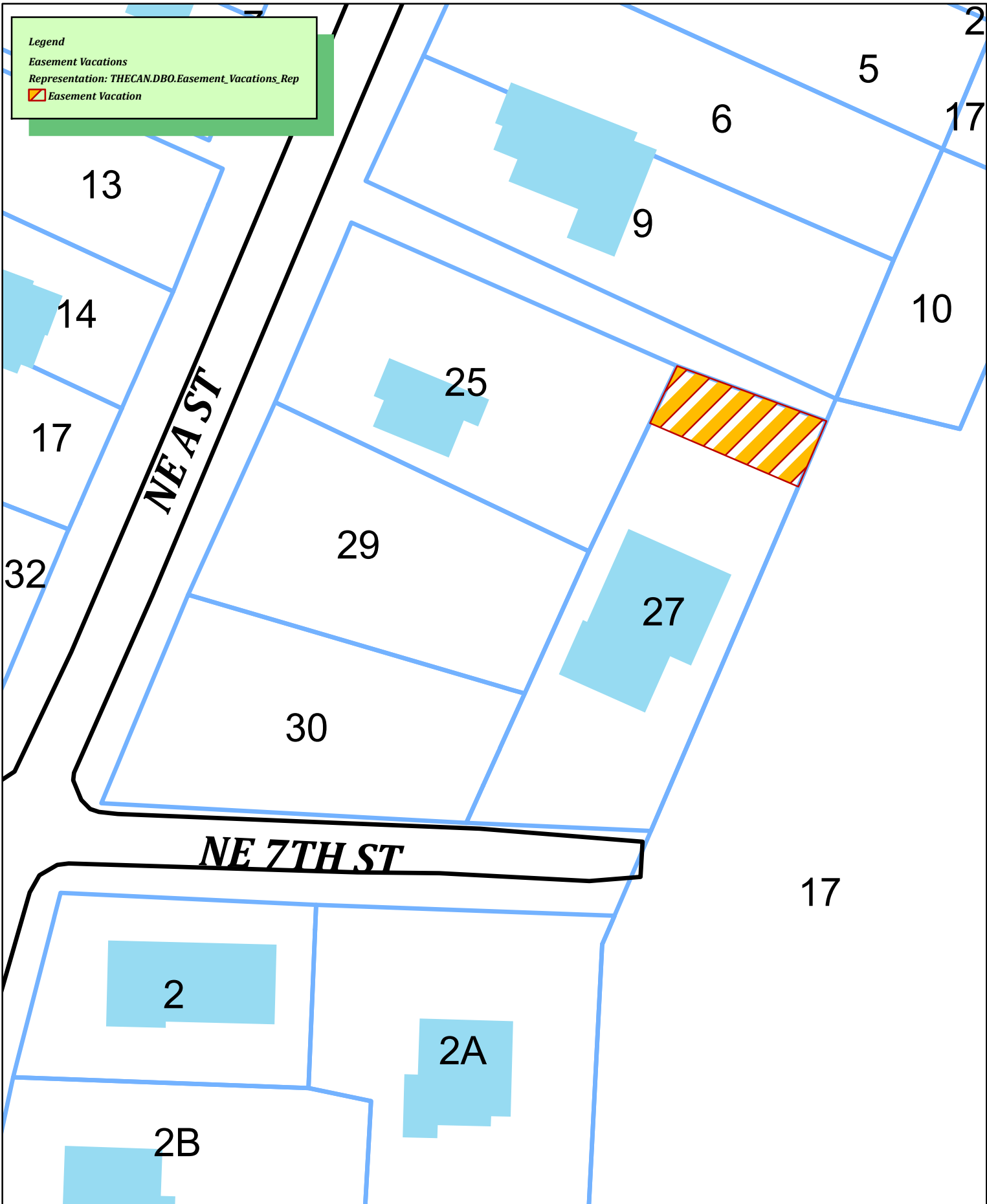
Agenda Item Form

Date of City Council Meeting	8/23/2022
Department	ENGINEERING
Submitted by	TRACY BILLINGS
Phone	(479) 696-0229

Item Type: (Check Applicable Item Type)					
☐ Budget Adjustment	☐ Change Order	☐ Informational	☒ Ordinance	☐ Resolution	☐ Bid Award
Recommendation/Suggested Action (Enter recommendation in space below):					
Public hearing and ordinance to vacate a Drainage and Utility Easement located at Demings 2nd Addition, Block 24 Lot 27, 201 NE 7th Street, (VAC22-0022).					

Estimated Cost	
Is this Item Budgeted?	☐ Yes ☐ No
If no, please explain how item will be funded (briefly explain in space below) :	





Proposed Drainage & Utility Easement Vacation



ORDINANCE NO _____

AN ORDINANCE VACATING A DRAINAGE AND UTILITY EASEMENT LOCATED AT DEMINGS 2ND ADDITION, BLOCK 24, LOT 27, TO THE CITY OF BENTONVILLE, ARKANSAS, BENTON COUNTY ARKANSAS. (VAC22-0022)

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

A 25' Drainage & Utility Easement squarely off the Northeast side of Lot 27 Block 24 of Deming's 2nd Addition as shown on Plat Record Book 'P' Page 210 and filed for record at the Benton County Clerk's Office, Benton County, Arkansas.

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 drainage and utility easement.

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

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

A 25' Drainage & Utility Easement squarely off the Northeast side of Lot 27 Block 24 of Deming's 2nd Addition as shown on Plat Record Book 'P' Page 210 and filed for record at the Benton County Clerk's Office, Benton County, Arkansas.

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 _____, 2022 at a regular meeting of the City Council of the City of Bentonville, Arkansas.

Kirby Romines, City Clerk and Recorder
City of Bentonville, Arkansas

Stephanie Orman, Mayor
City of Bentonville, Arkansas



Agenda Item Form

Date of City Council Meeting	8/23/2022
Department	ENGINEERING
Submitted by	TRACY BILLINGS
Phone	(479) 696-0229

Item Type: (Check Applicable Item Type)					
☐ Budget Adjustment	☐ Change Order	☐ Informational	☐ Ordinance	☒ Resolution	☐ Bid Award

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

Resolution setting a public hearing for September 13, 2022 for all Right of Way, Drainage and Utility Easement Vacations requested by JKC Rentals, LLC for Katie Lynn courts and Eastgate Subdivision (VAC22-0003).

Estimated Cost	
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Is this Item Budgeted?	☐ Yes ☐ No
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If no, please explain how item will be funded (briefly explain in space below) :

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Legend

Easement Vacations

Representation: THECAN.DBO.Easement_Vacations_Rep

 **Easement Vacation**

E CENTRAL AVE

KATIE CT

JAY CT

SEP ST



VAC22-0003
Proposed Easement Vacation



Legend

Easement Vacations

Representation: THECAN.DBO.Easement_Vacations_Rep

 **Street Vacation**

E CENTRAL AVE

KATIE CT

JAY CT

SEP ST



VAC22-0003
Proposed Street ROW Vacation



RESOLUTION NO. _____

IN THE CITY COUNCIL FOR THE CITY OF BENTONVILLE, ARKANSAS:

WHEREAS, a petition was duly filed with the City Council of Bentonville, Arkansas by JKC Rentals, LLC requesting all Right of Way, Drainage and Utility easements within the City of Bentonville, Arkansas be vacated, which said right of way, drainage and utility easements are described as follows:

All of Katie Lynn Courts according to Plat Book A15, Page 183; all of Eastgate Addition according to Plat Book O, Page 234 all to the City of Bentonville and being a part of the West 1/2 of the Northeast 1/4 of Section 32, Township 20 North, Range 30 West, Benton County Arkansas;

All utility and drainage easements, rights-of-way, and street rights-of-way dedicated according to Plat Book A15, Page 183, and Plat Book O, Page 234 in the public records of Benton County, Arkansas.

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

NOW, THEREFORE, BE IT RESOLVED, by the City of Bentonville, Arkansas, that the petition to close the above described right of way, drainage and utility easements is set for a hearing on September 13, 2022 at 6:00 p.m. in the City Council Room of the City of Bentonville, Arkansas, and the Bentonville City Clerk and Recorder is directed to give notice of this meeting by publication as set forth by Ark. Code Ann. Section 14-301-302(c).

The above and foregoing resolution was passed, approved and adopted the _____ day of _____ 2022 at a regular meeting of the City Council of the City of Bentonville, Arkansas.

Kirby Romines, City Clerk
Bentonville, Arkansas

Stephanie Orman, Mayor
City of Bentonville, Arkansas



Agenda Item Form

Date of City Council Meeting	8/23/2022
Department	ENGINEERING
Submitted by	TRACY BILLINGS
Phone	(479) 696-0229

Item Type: (Check Applicable Item Type)					
☐ Budget Adjustment	☐ Change Order	☐ Informational	☐ Ordinance	☒ Resolution	☐ Bid Award
Recommendation/Suggested Action (Enter recommendation in space below):					
Resolution setting a public hearing for September 13, 2022 for a Street Right of Way Vacation requested by Bentonville School District for New Alliance Subdivision, Lot 1 (VAC22-0021).					

Estimated Cost	
Is this Item Budgeted?	☐ Yes ☐ No
If no, please explain how item will be funded (briefly explain in space below) :	



Legend

Easement Vacations

Representation: THECAN.DBO.Easement_Vacations_Rep

 **Street Vacation**

SE 14TH ST

B-2A

D-1A

1

3

2

1

SE 15TH ST

SE J ST

1

8

1

4

5

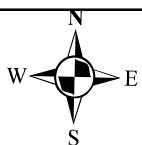
6

D-3

2

27A

28A



VAC22-0021
Proposed ROW Vacation



RESOLUTION NO. _____

IN THE CITY COUNCIL FOR THE CITY OF BENTONVILLE, ARKANSAS:

WHEREAS, a petition was duly filed with the City Council of Bentonville, Arkansas by Bentonville School District requesting a Street Right of Way vacation (VAC22-0021) within the City of Bentonville, Arkansas be vacated, which said easement is described as follows:

A part of the Northeast Quarter (NE 1/4) of the Northwest Quarter (NW 1/4) of Section 5, Township 19 North, Range 30 West also part of SE 15th Street according to Plat Book 4, Page 279 in the public records of Benton County, Arkansas, being more particularly described by metes and bounds as follows:

COMMENCING at a 1/2" rebar found at the northeast corner of Lot 1, New Alliance Subdivision to the City of Bentonville per Plat Instrument #L201842963;

THENCE along the east line of said Lot 1, South 02°42'04" West, 39.68 feet to a 1/2" rebar found at the intersection of said east line and the north right-of-way of SE 15th Street also being the POINT OF BEGINNING;

THENCE continuing along said east line, South 02°40'34" West, 50.03 feet to a mag nail found on the south right-of-way of SE 15th Street;

THENCE along said south right-of-way, North 85°44'57" West, 7.38 feet to a 1/2" rebar;

THENCE Northerly along the arc of a curve to the right 261.84 feet having a central angle of 300°03'07", a radius of 50.00 feet, and a chord that bears North 04°13'21" East with a chord distance of 49.96 feet to a 1/2" rebar found on the aforementioned north right-of-way of SE 15th Street;

THENCE along said north right-of-way, South 86°16'17" East, 6.03 feet to the POINT OF BEGINNING containing 7,963 square feet or 0.18 acres, more or less.

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

NOW, THEREFORE, BE IT RESOLVED, by the City of Bentonville, Arkansas, that the petition to close the above described easement is set for a hearing on September 13, 2022 at 6:00 p.m. in the City Council Room of the City of Bentonville, Arkansas, and the Bentonville City Clerk and Recorder is directed to give notice of this meeting by publication as set forth by Ark. Code Ann. Section 14-301-302(c).

The above and foregoing resolution was passed, approved and adopted the ____ day of _____ 2022 at a regular meeting of the City Council of the City of Bentonville, Arkansas.

Kirby Romines, City Clerk
Bentonville, Arkansas

Stephanie Orman, Mayor
City of Bentonville, Arkansas



Agenda Item Form

Date of City Council Meeting	8/23/2022
Department	ENGINEERING
Submitted by	TRACY BILLINGS
Phone	(479) 696-0229

Item Type: (Check Applicable Item Type)					
☐ Budget Adjustment	☐ Change Order	☐ Informational	☐ Ordinance	☒ Resolution	☐ Bid Award
Recommendation/Suggested Action (Enter recommendation in space below):					
Resolution setting a public hearing for September 13, 2022 for a Utility Easement Vacation requested for Lot 4 of Swaffer Subdivision (VAC22-0023).					

Estimated Cost	
Is this Item Budgeted?	☐ Yes ☐ No
If no, please explain how item will be funded (briefly explain in space below) :	

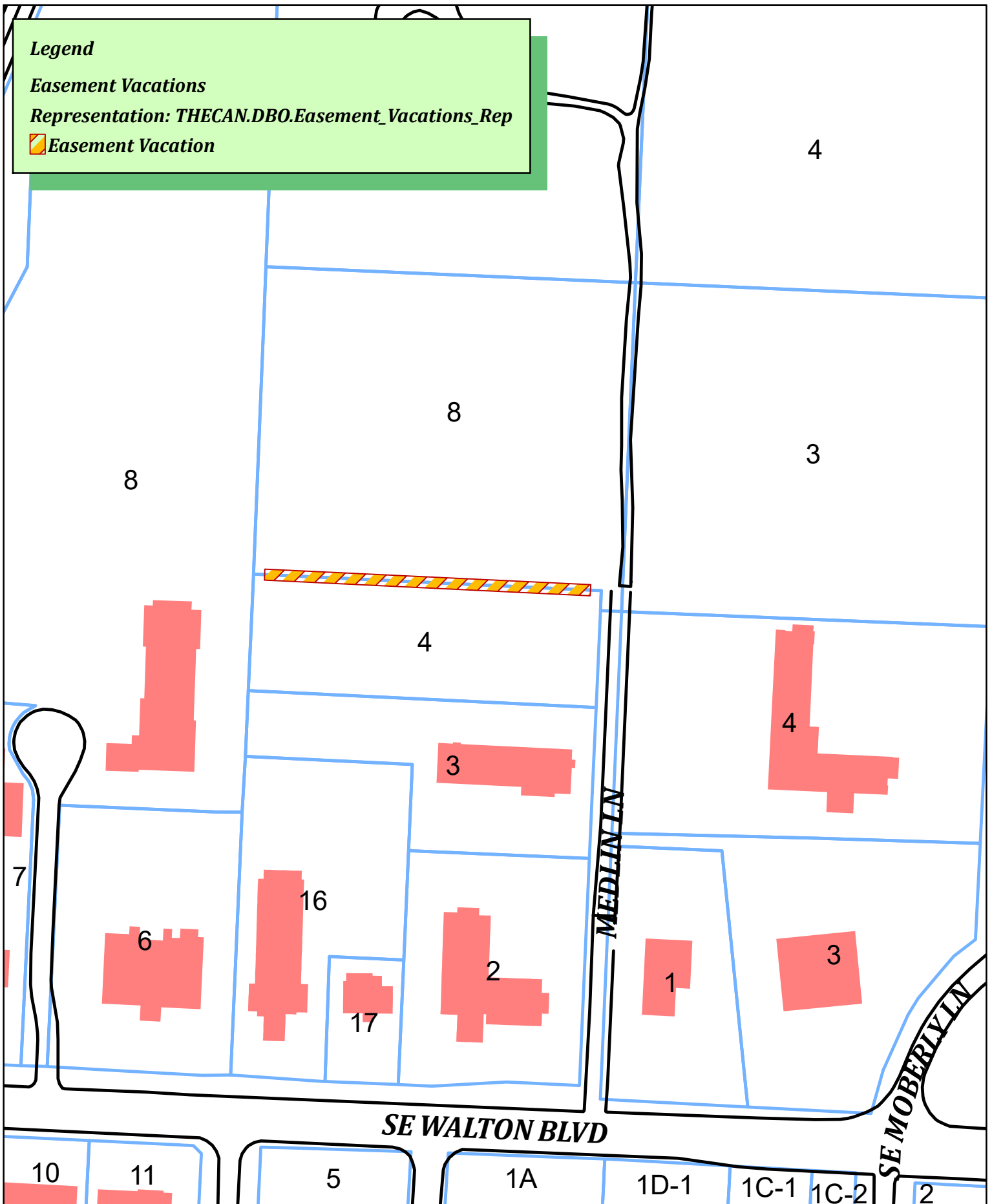


Legend

Easement Vacations

Representation: THECAN.DBO.Easement_Vacations_Rep

 **Easement Vacation**



VAC22-0023
Proposed Utility Easement Vacation



RESOLUTION NO. _____

IN THE CITY COUNCIL FOR THE CITY OF BENTONVILLE, ARKANSAS:

WHEREAS, a petition was duly filed with the City Council of Bentonville, Arkansas by NWA Real Estate & Investments, LLC requesting a utility easement vacation (VAC22-0023) within the City of Bentonville, Arkansas be vacated, which said utility easement is described as follows:

A 15 FOOT UTILITY EASEMENT, BEING 7.5 FEET ON EITHER SIDE OF A CENTERLINE, PART OF LOT 4 OF SWAFFER SUBDIVISION, AND PART OF LOT 8 OF MEDLIN MEADOWS SUBDIVISION, ALL IN THE CITY OF BENTONVILLE, BENTON COUNTY, ARKANSAS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SW CORNER OF SAID LOT 4; THENCE N 02°32'19" E A DISTANCE OF 156.65 FEET; THENCE S 87°15'44" E A DISTANCE OF 15.13 FEET TO THE POINT OF BEGINNING; THENCE S 87°15'44" E A DISTANCE OF 438.12 FEET TO THE POINT OF TERMINATION, WITH AN AREA OF 6571.78 SQUARE FEET, OR 0.151 ACRES, MORE OR LESS.

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

NOW, THEREFORE, BE IT RESOLVED, by the City of Bentonville, Arkansas, that the petition to close the above described utility easement is set for a hearing September 13, 2022 at 6:00 p.m. in the City Council Room of the City of Bentonville, Arkansas, and the Bentonville City Clerk and Recorder is directed to give notice of this meeting by publication as set forth by Ark. Code Ann. Section 14-301-302(c).

The above and foregoing resolution was passed, approved and adopted the ____ day of _____ 2022 at a regular meeting of the City Council of the City of Bentonville, Arkansas.

Kirby Romines, City Clerk
Bentonville, Arkansas

Stephanie Orman, Mayor
City of Bentonville, Arkansas



Agenda Item Form

Date of City Council Meeting	8/23/2022
Department	Street
Submitted by	Tony Davis
Phone	(479) 271-3130

Item Type: (Check Applicable Item Type)					
☐ Budget Adjustment	☐ Change Order	☐ Informational	☐ Ordinance	☒ Resolution	☒ Bid Award
Recommendation/Suggested Action (Enter recommendation in space below):					
Resolution to award bid #IFB 22-75 to Bobcat of Northwest Arkansas for a 2022 or Current Model Compact Excavator (Long Arm), as specified. Please see attachments.					

Estimated Cost	\$103,832.28
Is this Item Budgeted?	☒ Yes ☐ No
If no, please explain how item will be funded (briefly explain in space below) :	





Bentonville Street Department
3200 SW Municipal Drive
Bentonville, AR 72712
Phone: (479) 271-3130

Memorandum

DATE: August 23, 2022

TO: City Council, Mayor Orman

FROM: Tony Davis

RE: Bid Award IFB 22-75 2022 or Current Model Compact Excavator (Long Arm)

On July 25, 2022 the City of Bentonville received two bids for a 2022 or Newer Excavator (Long Arm). Please see attached bid tabulation.

Scott Equipment submitted a bid of \$100,283.39 but the machine did not meet all specifications.

Staff is recommending awarding bid IFB 22-75 to Bobcat of Northwest Arkansas in the amount of \$103,832.28. This machine met all specifications. This is a 2022 budgeted item.

Thanks for your consideration, please contact me with any questions. I can be reached by phone at 479-271-3130 or email at todayis@bentonvillear.com.

**CITY OF BENTONVILLE, ARKANSAS PURCHASING DEPARTMENT****FORMAL SEALED BID TABULATION****Date of Bid
Opening:****7/25/22****Time of Bid Opening:****2:00PM****Solicitation ID Number:****IFB-22-75****Solicitation Title: 2022 or Current Model Compact Excavator (Long Arm), As Specified**

Bidders:			Bobcat of Northwest Arkansas	Scott Equipment
Line Item	Quantity (Unit of Measure = EA)	Description	Unit Price	Unit Price
1	1	2022 or Current Model Compact Long Arm Excavator, as specified	\$94,824.00	\$91,583.00
		Sales Tax 9.5%	\$9,008.28	\$8,700.39
		Total Bid Price	\$103,832.28	\$100,283.39
purchasing@bentonvillear.com - (479) 271-3115				



CITY OF BENTONVILLE, ARKANSAS
PURCHASING DEPARTMENT
ADMINISTRATIVE SERVICES BUILDING
1000 SW 14TH STREET BENTONVILLE, AR 72712
(479)-271-3115 – purchasing@bentonvillear.com

FOR PUBLICATION

PUBLICATION DATES: JULY 3, 2022

NOTICE TO BIDDERS

2022 OR CURRENT MODEL COMPACT EXCAVATOR (LONG ARM), AS SPECIFIED

Invitation For Bid (IFB)-22-75

The City of Bentonville is accepting formal sealed bids for the one-time purchase and delivery of one (1) 2022 or current model Bobcat E50-R2 Compact Long Arm Excavator, as specified, or equivalent Unit, for the City of Bentonville Street Department.

The City reserves the right to cancel this request at any time in accordance with the City's best interest. The City also reserves the right to reject any Bid received and to waive irregularities in accordance with the City's best interest.

The City of Bentonville Purchasing Department encourages all qualified small, minority and women owned businesses to participate and submit Bids for City projects/purchases.

Interested parties can obtain the required Bid Packet by emailing purchasing@bentonvillear.com, by calling 479-271-3115, or from the Purchasing Department located at the address below. The Bid Packet may also be downloaded from the Purchasing Page of the City's website (<http://www.bentonvillear.com/211/Purchasing>) by clicking 'Review Open Bids'; however, Bidders are encouraged to notify Purchasing that they have downloaded the Bid Packet to ensure they are on the distribution list for Addenda and/or Q&A. Interested Parties should note that there may be a 24-48 hour delay from the date of publication for the documents to be available on the City's website.

Bidders who wish to deliver a Bid Submission prior to the Bid Opening date/time may do so by delivering the Bid Submission to the Purchasing Department located at the address below. Bidders may also choose to deliver their Bid Submission at the Public Bid Opening, but must do so prior to the Public Bid Opening time.

There will be a Public Bid Opening for IFB-22-75 held at 2:00 PM CST on Monday, July 25, 2022; the Bid Opening will be held at the City of Bentonville Administrative Services Building-Purchasing Department, in Room A239 on the 2nd floor, located at 1000 SW 14th Street Bentonville, AR 72712. All Bid Submissions must be received by Purchasing prior to the Public Bid Opening time. Late Submissions and unsigned Submissions will be rejected, without exception. In accordance with Arkansas Procurement Law and Rules, it is the responsibility of vendors to submit responses at the designated location on or before the Bid Opening date and time. Responses received after the designated Bid Opening date and time will be considered late and will be rejected.

Questions must be submitted via written communication only to purchasing@bentonvillear.com. The deadline to submit questions related to this Invitation is July 19, 2022, at 4:30 PM CST.

DEPARTMENT RESPONSIBLE FOR ADVERTISING COSTS: ACCOUNTING



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INVITATION FOR BID (IFB) SOLICITATION

SOLICITATION INFORMATION			
Bid Number:	IFB-22-75	Date of Issuance:	JULY 3, 2022
Description:	2022 OR CURRENT MODEL COMPACT EXCAVATOR (LONG ARM), AS SPECIFIED		
Requesting Department:	CITY OF BENTONVILLE STREET DEPARTMENT		
Purchasing Department (Buyer):	ANDREA TREVISAN		
Pre-Bid Meeting Information:	NO PRE-BID MEETING SCHEDULED FOR THIS SOLICITATION		
Bid Bond Requirement:	NO BID BOND REQUIRED		

BID OPENING DATE & TIME	
Bid Opening Date and Time:	JULY 25, 2022 AT 2:00 PM CST
Bid Opening Location:	City of Bentonville Administrative Services Building Bid Opening Room – 2 nd Floor – Room A239 1000 SW 14 th Street Bentonville, AR 72712

DELIVERY OF BID SUBMISSION	
Location (and mailing address) for Bid Submission Delivery:	City of Bentonville Administrative Services Building Purchasing – 2nd Floor 1000 SW 14 th Street, Bentonville, AR 72712
Bid Submission Requirements:	All Bids must be received by the Purchasing Office prior to the date and time listed herein for the Bid opening, in a sealed envelope with the following information clearly marked on the outer envelope: - Solicitation ID (IFB Number) - Bidder's Name/Company Name & Phone Number Bids which must be opened to be identified may be rejected. Bids which are not sealed or are opened upon delivery will not be accepted. Late Bids, unsigned Bids, or Bids which do not contain a Bid bond (when required) will be rejected, without exception. In accordance with Arkansas Procurement Laws and Rules, it is the responsibility of the Bidder to submit their Bid submission correctly and to the designated location prior to the Bid opening time.

Deadline for Submission of Requests for Information, Questions or Clarifications:	July 19, 2022– 4:30 PM CST
<i>Questions should be submitted only to the Purchasing Office via written communication only to purchasing@bentonvillear.com.</i>	



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EXECUTION OF BID PAGE (REQUIRED)

Upon signing this Bid, the Bidder certifies that he/she has read and agrees to the requirements set forth in this Bid proposal including specifications, conditions and pertinent information regarding the articles being Bid on, and agrees to furnish these articles at the prices stated. All information on this page must be completed.

Unsigned Bids will be rejected - no exceptions.

WT EQUIPMENT DBA BOBCAT OF NORTHWEST ARKANSAS
Name of Firm: WILLIAMS TRACTOR Phone Number: 479-621-6001
Business Address (Full Street/City/State/Zip): 2737 WEST HUDSON RD. ROGERS AR 72756
Is this address able to accept mail deliveries (for the purpose of returning Bid bonds etc.): ☒ Yes ☐ No
Name of Contact Person: GARY GREEN Email: GGREEN@WILLIAMSTRACTOR.COM
Signature of Authorized Person:  Date: 7-22-22
Printed or Typed Name: GARY GREEN Title: SALES
Arkansas Contractor's License Number: _____ (Not required unless specified)
Sales or Use Tax ID Number: 695131555LS
Bid Bond Included: ☐ Yes ☒ No (only required if specified in this IFB Document)

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SECTION 1: OVERVIEW

1. INTENT

The intent of this Invitation for Bid (IFB) is for the one-time purchase and delivery of one (1) 2022 or current model Bobcat E50-R2 Compact Long Arm Excavator, as specified, or equivalent Unit.

2. REQUIRED RESPONSE DOCUMENTS

The following documents must be complete to provide a complete Bid response package:

- Invitation for Bid (IFB) document, all response fields complete.

3. APPENDIXES

- **APPENDIX A: VENDOR DISCLOSURE (REQUIRED RESPONSE DOCUMENT)**
- **APPENDIX B: SPECIFICATIONS (REQUIRED RESPONSE DOCUMENT)**

SECTION 2: REQUIREMENTS, TERMS & CONDITIONS

BIDDERS: THIS SECTION CONTAINS REQUIRED RESPONSE FIELDS

1. GUARANTEE OF BID

Bidders may not withdraw their Bids for a period of sixty (60) days after the Public Bid Opening. The City of Bentonville has sixty (60) days from the Bid Opening date in which to evaluate Bids and recommend award to City Council if it is determined to be in the City's best interest. Bidders may only withdraw their Bids in accordance with the Terms and Conditions herein.

2. BONDS

A. BID BOND (BID GUARANTEE)

Bidders are required to include a Bid Bond as specified when the 'Bid Bond Required' field below has an "x" mark or when otherwise required in this document.

 Bid Bond Required X Bid Bond Not Required for this Solicitation

All Bids must be accompanied by a Bid Bond/Bid Guarantee in the form of a Bid bond, certified check, or cashier's check in the amount of **(NA)**, payable without condition to the City of Bentonville. The Bond shall not have an expiration date of less than the number of days specified in Section 5 (Guarantee of Bid) of this IFB document. Personal checks and company checks are NOT acceptable as a Bid guarantee.

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B. PERFORMANCE & PAYMENT BOND

The awarded Bidder is required to submit Performance and Payment Bonds at the time of Contract signing when the 'Performance & Payment Bonds Required' field below has an "x" mark or when otherwise required in this document.

☐ Performance and Payment Bond Required ☒ Performance and Payment Bond Not Required for this Solicitation

The awarded Bidder shall furnish Performance and Payment Bonds after the Notice of Award is issued and upon the time of signing the binding Contract, each in an amount at least equal to the Total Bid Price as security for the faithful performance and payment of all of the awarded Bidder's obligations under this Invitation for Bid and the awarded binding Contract. These Bonds shall remain in effect for a period of one (1) year after a formal Completion of Work Notice is issued by the City.

C. BONDS – GENERAL

All bonds shall be executed by such sureties as are named in the list of Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and Management Service, Surety Bond Brand, U.S. Department of the Treasury. All bonds 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 each bond.

If the surety on any bond furnished by the awarded Bidder is declared bankrupt or becomes insolvent or its right to do business is terminated in any state where any part of the Project is located or it ceases to meet the requirements set forth herein, the awarded Bidder shall promptly notify the City and shall, within twenty (20) days after the event giving rise to such notification, provide another bond and surety, both of which shall comply with the requirements set forth herein.

All bonds and insurance required by this Invitation for Bid and by the binding contract documents executed after the Notice of Award, to be purchased and maintained by the awarded Bidder, shall be obtained from surety or insurance companies that are duly licensed or authorized in the jurisdiction in which the work defined herein is to be performed.

3. WARRANTIES

The awarded Bidder shall assume that the City prefers all work (workmanship and materials) and/or items furnished to the City to be warrantied and shall furnish any and all applicable workmanship/material/product warranties to the City.

Bidders shall respond when required in the Warranties portion of the Specifications Section in this IFB Document.

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4. LAWS AND REGULATIONS

The Bidder's attention is directed to the fact that all applicable Federal and State Laws, and the rules and regulations of all authorities having jurisdiction over the construction of the project or the purchase or sale of the item(s) shall apply to the contract throughout, and they will be deemed to be included herein and in any awarded contract the same as though herein written out in full.

5. ENCOURAGEMENT FOR PARTICIPATION

Pursuant to Arkansas Code Annotated § 22-9-203, the City encourages all qualified small, minority owned, and women owned business enterprises to submit Bids for capital improvements. Encouragement is also made to all general (prime) contractors that in the event they subcontract portions of their work, consideration is given to the identified groups.

The City of Bentonville Purchasing Department encourages qualified small, minority and women owned businesses to participate and submit Bids for City projects/purchases.

6. QUESTIONS/REQUESTS FOR INFORMATION (RFIs)/REQUESTS FOR CLARIFICATION (RFCs)/ADDENDA

All questions or requests related to this Invitation for Bid shall be directed solely to the Purchasing Department via written communication only, via one of the methods below. A copy of the question and the City's response will be distributed to all known document holders via an 'RFI (Request for Information) Response' or via Addenda (Addendum 1, 2 etc.).

All questions should reference the IFB number when submitted

Submit Via Email: purchasing@bentonvillear.com

Submit Via Mail: City of Bentonville Administrative Service ATTN: Purchasing Office (solicitation number) 1000 SW 14th Street Bentonville, AR 72712

For Phone Calls: (479) 271-3115

The Purchasing Department will not respond to or otherwise acknowledge requests received after the deadline for submission of these requests stated herein. Questions requesting the Bid Opening date, Bid Bond requirement, and other details clearly outlined herein will not be included in RFI Responses or Addenda unless there are changes in the information after the Advertisement has published.

NOTE: No information communicated verbally or in any other form than a formal RFI Response or Addendum shall be considered firm or contractual; only information contained herein or otherwise in an RFI Response or Addendum shall be contractual.

Bidders are required to acknowledge any Addenda issued in their Bid Submission, per the requirements in the Addendum.

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7. EQUIVALENT ITEMS/REFERENCED SPECIFICATIONS

Whenever these specifications mention an item by name and use specific descriptions as reference thereto (such as model, part, brand names etc.), it is intended to convey to the Bidder an understanding of the standard of excellence required. Items that Bidders believe to be of equal type, quality, and size that will conform substantially to the standard of excellence established to provide equivalent merit, strength, durability, and to perform the required function in accordance with these specifications may be offered. Bids containing items proposed as equivalent (or alternate) shall clearly describe the equivalent (or alternate) article being offered and indicate how it differs from the City's original specification and how it conforms to the specification. Descriptive literature or manufacturer's specifications, in addition to any supplemental information necessary for comparison purposes should also be submitted with the Bid. It is the Bidder's responsibility to demonstrate to the City that an equivalent (or alternate)/substitute offer is equivalent to and meets the standard of quality indicated by the City's specifications. The City of Bentonville shall have the final approval of whether a substitute (or alternate) item is equal to the item specified. Submitting false claims that an item is 'as specified' when the item is an alternate or is otherwise not conforming to the specification shall be considered a lack of responsibility and the Bid from that Bidder may be rejected.

8. INDEMNIFICATION

Due to the City statutory tort Immunity, the City does not carry liability insurance for such claims. Accordingly, any contract entered into with the awarded Bidder may not include a clause in which the City agrees that it or its' officials or employees will indemnify the other party.

The awarded Bidder agrees to indemnify the City and hold it harmless against all claims, liability, loss, damage or expense, including but not limited to counsel fees, arising from or by reason of any actual or claimed trademark, patent or copyright infringement or litigation based thereon, with respect to the service or any part thereof covered by this order, and such obligation shall survive acceptance of the services and payment thereof by the City.

9. DAMAGES

Any damage occurring to City (public) or private property within the worksite area(s) or otherwise out of the awarded Bidders performance of this Contract shall be corrected at the awarded Bidder's expense.

The awarded Bidder shall be responsible for maintaining the job site and keeping it clean and orderly. Failure to maintain the cleanliness and orderliness of any job site in relation to this Invitation for Bid shall be considered a service failure, and may result in the City employing City forces for the purpose of job site cleanup and organization. Any costs the City incurs for the purpose of correcting the awarded Bidder's service failure will be deducted from the monies due to the awarded Bidder.

Any damages which occur during the performance of the services described herein shall be immediately communicated to the City's contact, or designated assignee and repaired at the awarded Bidder's expense.



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10. PAST PERFORMANCE/REFERENCES

The City reserves the right to request references and to contact those references as part of the evaluation of Bids submitted to this Invitation for Bid. The City reserves the right to use the information gained from contacting references or from reviewing a Bidder's prior performance with the City in the evaluation of Bids, including but not limited to evaluating a Bidder's prior performance of the same or similar scope of work or delivery of items for the City or any other entity for whom the Bidder has performed work. The City reserves the right to request additional information from the apparent low Bidder if it is deemed to be in the City's best interest, and use that information in the evaluation for award based on what is in the City's best interest.

11. TOBACCO PRODUCTS AND LITTERING

The use of tobacco products is only permitted in designated areas marked with proper cigarette disposal containers on site. No disposal of tobacco products or littering of any kind shall be tolerated on the work premises or during performance of work for the City.

12. ARKANSAS FREEDOM OF INFORMATION ACT (FOIA)

By submitting a Bid in response to this IFB, Bidder acknowledges and understands that the City is subject to the Arkansas Freedom of Information Act (FOIA) and City contracts and documents prepared while performing City work are subject to this Act. In the event that a FOIA request is presented to the City, the awarded Bidder agrees to do everything possible to provide any requested documents that they may be in possession of in a prompt and timely manner as prescribed in A.C.A. §25-19-101.

13. BIDDER'S DOCUMENTS

The only terms and conditions that will become part of the award/awarded Contract are those documents issued by the City as part of this IFB, or documents furnished by the awarded Bidder (such as a contract) that are in accordance with the terms and conditions contained in this IFB and/or are approved for Mayor's signature by the City's Legal Department.

Bidder's inclusion of their terms and conditions or other types of documents containing terms and conditions regarding payment, invoicing, indemnification or any other type of term are not accepted based on inclusion in the Bid Submission and will not be acknowledged as conditions to the Bid. No conditional bids will be accepted.

Bidders are required to use ONLY the prescribed City forms in their Bid Submission unless Bidder has included additional information for the City's consideration of an 'equivalent'/'alternate' item (i.e. product data sheets etc. are acceptable).

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14. INVOICING

The awarded Bidder shall provide an invoice to the City for review and approval prior to payment. The City will not pay from any document other than an invoice (i.e. payments will not be processed based on contracts etc.).

The invoicing option(s) available to Bidders for this IFB are indicated below by an "x" mark in the option(s) available.

☐ Invoice upon 100% completion (As approved by the City)

☐ Progress invoicing (Payment will be made only for actual work completed and approved by the City and/or for materials stored on the City's worksite)

☒ Invoice upon delivery (Payment within 14 days)

☒ Invoice 14 days prior to delivery for payment upon delivery
(All product(s) or work must be approved by an authorized
City of Bentonville employee prior to payment being furnished).

Payment will not be made for incomplete work or for item(s) delivered out of spec (not as specified). Any return or correction shall be at the awarded Bidder's expense. The City reserves the right to cancel an order due to receiving out of spec item(s) or request a replacement, whatever is in the City's best interest.

Unless otherwise specified, invoices will be paid within fourteen (14) days of receipt of an approved invoice.

All invoices should be submitted to the City of Bentonville Accounts Payable Office, address and email below:

City of Bentonville Administrative Services

ATTN: Accounts Payable

1000 SW 14TH ST

Bentonville, AR 72712

accountspayable@bentonvillear.com

15. BIDDER REQUESTED PAYMENT TERMS

Bidders must use the space provided below to communicate their requested payment terms. Requests are not guaranteed for approval.

☒ NET 30 Days from Invoice Submission ☐ NET 60 Days from Invoice Submission ☐ Other (Specify Below)

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16. PRE-BID MEETING

There will be a pre-Bid meeting when indicated by an “x” mark in one of the fields below or when otherwise indicated in this IFB document. If there is an “x” in the “No Pre-Bid Meeting” option, there will not be a Pre-Bid Meeting for this IFB.

☐ **Mandatory Pre-Bid Meeting (Bidder must attend to be eligible to submit a Bid)**

☐ In Person ☐ Zoom or Other Virtual Method

☐ **Optional Pre-Bid Meeting (Bidder attendance is highly encouraged but not required)**

☐ In Person ☐ Zoom or Other Virtual Method

☒ **No Pre-Bid Meeting (There is no pre-Bid meeting scheduled for this IFB)**

17. TERM

The Section with an “x” mark below shall apply to this Invitation for Bid.

☐ **Contract Term (for services, construction projects etc.)**

The awarded Bidder will be required to enter into a binding Contract with the City of Bentonville, for the services listed herein. The term of the awarded Contract shall be ___year(s) renewable annually upon mutual written agreement for a maximum term of ___years.

☒ **Single Purchase (for an item(s) ordered at one time)**

The awarded Bidder will receive a single Purchase Order from the City of Bentonville for the one-time purchase and delivery of the Unit(s). The terms and conditions of the Purchase Order shall be in accordance with this IFB document, all Appendixes attached hereto and any Addenda issued throughout the solicitation.

- A. Delivery shall be made in accordance with the City’s delivery date/time specified herein or otherwise accepted (if alternate delivery dates/times are requested by the Bidder and accepted by the City in the form of award of the Bid or other written agreement).

☐ **Multiple Purchase/Pricing Agreement (for items ordered at various times)**

The awarded Bidder will receive Purchase Orders from the City of Bentonville for the purchase and delivery of the quantities specified in the Purchase Order.

- A. Deliveries must be made to the specified City of Bentonville location within _____ from receipt of the City’s Purchase Order unless otherwise indicated herein and accepted by the City.

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18. SUBCONTRACTORS

If Bidder intends to subcontract portions of the work, the work being subcontracted and the subcontractor being proposed to perform the work must be disclosed in the Bidder's Bid Submission. The City reserves the right to apply all Bid evaluation factors to any proposed subcontractors and to use that information to determine the qualifications of a subcontractor and their suitability to perform the work to the City's specifications/standards.

Bidders must be knowledgeable of and comply with all state, local and federal laws concerning subcontractors performing work for municipal (governmental) projects.

In the event that Bidder intends to subcontract portions of the work, Bidder is required to complete the 'Subcontractor Disclosure' Section of this IFB document.

SUBCONTRACTOR LICENSING IN THE STATE OF ARKANSAS

Subcontractors who submit proposals in excess of \$50,000.00 must have a current Arkansas State Contractor's License.

- a. As a condition to performing construction work for and in the State of Arkansas, all prime contractors shall use no other subcontractors when the subcontractors' portion of the project is Fifty Thousand Dollars (\$50,000.00) or more, except those licensed by the Contractors Licensing Board and qualified in:
 1. Mechanical, indicative of heating, air-conditioning, ventilation, and refrigeration;
 2. Plumbing;
 3. Electrical, indicative of wiring and illuminating fixtures; and
- b. In the event the prime contractor is qualified and licensed by the Contractors Licensing Board, he may use his own forces to perform those tasks listed in this section as subcontractors in one (1) or more of the trades listed.
- c. The prime contractor shall place the names of each subcontractor in a blank space to be provided following the Pricing Sheet of this bid. It shall be mandatory that the a) mechanical, b) plumbing, and c) electrical subcontractors named on the Form of Proposal by the prime contractor awarded a contract under the provision of this Act be given contracts by the prime contractor in keeping with their proposals to perform the items for which they were named. **If the prime contractor is performing the work for the trade listed, they must list their own company in the space provided.**

19. FIELD TESTING

The City of Bentonville reserves the right to field test equipment proposed by the apparent low-Bidder or the apparent two lowest Bids to confirm the proposed Unit(s) meet the City's Specifications. All costs associated with the field test shall be the Bidder's responsibility, including but not limited to transport of the Unit(s) to the City's testing site and pick-up of the Unit(s) upon completion of testing. In no event shall any Bidder assume the City will purchase the proposed Unit(s) based off of the test. Confirmation of award is only received by approval from the Bentonville City Council.

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SECTION 3: SCOPE OF WORK & DELIVERY

BIDDERS: THIS SECTION CONTAINS REQUIRED RESPONSE FIELDS

1. SCOPE OF WORK

The Scope of work for this Invitation for Bid (IFB) is for the one-time purchase and delivery of one (1) 2022 or current model Bobcat E50-R2 Compact Long Arm Excavator, as specified, or equivalent Unit.

The delivered unit(s) shall be complete without any defect and shall include all factory, manufacturer and any other warranties applicable, shall be complete with all owner/user manuals and tools that are standard to be delivered with the unit(s).

2. DELIVERY

The City of Bentonville requests (specifies) the below completion and or delivery date(s) as indicated by an "x" mark in the applicable field. If the requested (specified) schedule cannot be met, Bidder must specify the date(s)/schedule that Bidder is able to commit to in the fields provided. Failure to state a date/schedule obligates the Bidder to perform the work or delivery the item(s) or services and complete services within the City's requested timeline. Alternate or extended delivery dates may be considered when in the best interest of the City.

Estimated Award Date (not guaranteed, subject to change): _____ August 9, 2022 _____

Delivery/Work-Site Address: _____ 3200 SW Municipal Dr, Bentonville, AR 72712 _____

*Bidders note that a change in the estimated award date will not release Bidder from the specified delivery date(s).

X One-Time Order Item(s) Delivery Specified Date(s)

City's Specification:

One-Time Order: All item(s) shall be delivered within thirty (30) days from receipt of the City's Purchase Order.

Bidder Response: AS SPECIFIED ~~ALTERNATE DATES REQUESTED~~ (REQUIRES COMPLETION OF FIELD BELOW)

Alternate Dates Requested: (REQUIRED RESPONSE IF 'ALTERNATE DATES REQUESTED' IS MARKED ABOVE)

One-Time Order: All item(s) shall be delivered within 60-90 day(s) from receipt of the City's Purchase Order.

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SECTION 4: BIDDER ACKNOWLEDGEMENTS

Bidders are required to verify that the following required documents and bonds have been included with their Bid submission or will be furnished when due.

Description	Bidder's Initials												
Invitation for Bid document, executed with all fields complete and thoroughly reviewed.	<u>GLG</u>												
Appendix A: Vendor Disclosure, Completed	<u>GLG</u>												
Appendix B: Specifications, Completed	<u>GLG</u>												
Addenda: Bidders are required to acknowledge all addenda issued for this IFB. Bidders may acknowledge issued addenda either by inclusion in their Bid Submission or by noting the Addendum Number and Date of Issuance below in the fields provided. <table><thead><tr><th><u>ADDENDUM NUMBER</u></th><th><u>DATE OF ISSUANCE</u></th></tr></thead><tbody><tr><td>_____</td><td>_____</td></tr><tr><td>_____</td><td>_____</td></tr><tr><td>_____</td><td>_____</td></tr><tr><td>_____</td><td>_____</td></tr><tr><td>_____</td><td>_____</td></tr></tbody></table>	<u>ADDENDUM NUMBER</u>	<u>DATE OF ISSUANCE</u>	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	<u>GLG</u>
<u>ADDENDUM NUMBER</u>	<u>DATE OF ISSUANCE</u>												
_____	_____												
_____	_____												
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PURCHASING DEPARTMENT
ADMINISTRATIVE SERVICES BUILDING
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SECTION 5: BID PRICING

Bidder, having examined this Invitation for Bid document in its entirety and having performed a thorough examination of the product specifications hereby agrees to furnish all labor, products, materials, equipment, staging, transportation, and supervision of such, and all other components to deliver Unit(s) in accordance with the specifications contained herein.

Bid prices shall include all costs, **including but not limited to: tax**, all labor, products material, equipment, disposal fees, transportation, staging, mobilization, overhead, profit, insurance, shipping and handling and all other costs to the City of Bentonville, Arkansas to cover the finished work and/or delivered products.

The City of Bentonville is NOT exempt from sales tax. The City of Bentonville Sales Tax is 9.5%.

AWARD OF THIS INVITATION FOR BID WILL BE BASED ON (applicable award method marked with an "x"):

X **Total Bid Price:** The award will be based on the lowest and most responsible Total Bid Price with all factors considered. The Total Bid Price shall be written in words and in figures. In case of discrepancy between the written amount and the figures, the written amount shall govern. In case of discrepancy between the Unit Price and the Extended Price, the Unit Price shall govern.

Deductive Alternates apply when indicated by an "x" in the fields below

 Deductive Alternates Included **_X_** **Deductive Alternates not Included in this IFB**

The City reserves the right to award the project in any manner that is deemed in its best interest, or to reject any or all Bids and to waive any irregularities.

No Bid shall be withdrawn for a period of sixty (60) days after the opening of Bids without the consent of the City; sixty (60) days shall be allowed to the City in which to determine the manner in which to award or not award the Contract.

THE BID FORM IS LOCATED ON THE FOLLOWING PAGE



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BID FORM

Line Item	Quantity (Unit of Measure = EA)	Description	Unit Price
1	1	2022 or Current Model Bobcat E50-R2 Compact Long Arm Excavator, as specified Bidder mark here if as specified: <u>X</u> Bidder: Specify year/make/model etc. here if alternate/equivalent Unit proposed: _____	\$ <u>94,824.00</u>
SALES TAX (If applicable, write "NA" if not applicable. The City does not pay sales tax on vehicles registered to be driven on the road)		\$ <u>9008.28</u>	
TOTAL BID PRICE (Stated in figures)		\$ <u>103,832.28</u>	
TOTAL BID PRICE (Stated in words)		ONE HUNDRED THREE THOUSAND, EIGHT HUNDRED THIRTY TWO AND – TWENTY EIGHT CENTS	

BIDDER DECLARATION

The Undersigned hereby declares that they have carefully examined the Invitation, Scope of Work, Specifications and all other information related to the performance of the work or delivery of materials or items as described herein, has visited the actual location of the work (when applicable), has consulted their sources of supply, has satisfied themselves as to all quantities and conditions, and understands that in signing this proposal, they waive all right to pleas of any misunderstanding regarding the same.

NT EQUIPMENT - WILLIAMS TRUCK
Company Name: DBA BOBCAT OF NWA By (Authorized Person's Signature): _____

State of incorporation (required if Company is a corporation): ARKANSAS

Full names of all partners (required if Company is a partnership): _____

Printed Name and Title: GARY GREEN - SALES

Date: 7-22-22



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PURCHASING DEPARTMENT
ADMINISTRATIVE SERVICES BUILDING
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SECTION 6: INVITATION FOR BID ADDITIONAL TERMS & CONDITIONS/INSTRUCTIONS TO BIDDERS

1. **SCOPE:** These instructions and conditions shall be in force unless otherwise modified by the City in this Bid Document. Bidders shall be advised that the City of Bentonville is not responsible for the content of any Bid package received through any 3rd party Bid service. It is the sole responsibility of the vendor to ensure the completeness of the documents received from any 3rd party source.
2. **DEFINITIONS (AS USED HEREIN):**
 - a. The term "Invitation For Bid" means a solicitation for formal, competitive sealed Bids. The acronym "IFB" means Invitation for Bid. "Solicitation" may also be used throughout to refer to the Invitation for Bid.
 - b. The term "Bid" means the offer by the Bidder.
 - c. The term "Bidder" means the person or organization responding to the Invitation for Bid.
 - d. The term "Contractor" means a person or organization who is the successful Bidder and who enters into a contract with the City.
*At times in this document the terms Bidder and Contractor are interchangeable.
 - e. The term "Change Order" means a written order from or approved by the Purchasing Department directing the Contractor to make changes to a Contract.
 - f. The term "City" means the City of Bentonville, Arkansas.
 - g. The term "City Council" means the governing body of the City of Bentonville, Arkansas.
3. **PREPARATION OF BIDS:** Bidders shall review the specifications, drawings, and all special and general conditions and any other documents included as part of this Invitation for Bid. Bidders are responsible for field verifying work or other means of familiarizing themselves with the Scope of Work of this Invitation for Bid. Failure to do so will be at the Bidder's risk.

Each Bidder shall furnish the information required in the solicitation. The Bidder shall provide their name, address, e-mail address, and telephone number where indicated in the solicitation documents. All signatures must be by an officer or employee having the authority to bind the company or organization by his/her signature and included with the Bid response.

Unit price for each unit offered must be provided. The unit price will be presumed correct.

The Bidder must state a definite time for delivery of supplies or performance of services; in cases where the Bidder does not state a definite time, the City's specified timeline shall apply.

Multiple Bids: Bidders are prohibited from submitting multiple Bids for the same product in response to a competitive sealed Bid solicitation. In the event that a Bidder submits multiple Bids for the same product, all Bids from that Bidder will be rejected.

Exception for Different Models: In the event that the Bidder believes they have multiple different models or products (such as equivalent items) that meet the City's specifications, the Bidder may submit multiple Bids in response to a competitive sealed Bid solicitation as long as the following requirements are met:

- (1) The Bids are submitted in separate sealed envelopes;
- (2) The products being proposed in each submission are different makes, models or otherwise types of products.



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4. **SUBMITTING A BID:** Bids must be received by the City of Bentonville Purchasing Department **BEFORE** the time of opening indicated in the solicitation. All references to time shall be Bentonville, Arkansas time (Central Time Zone). Late Bids will be rejected without exception. Any exceptions or additional information required on a solicitation will be noted in the Bid documents or issued via clarification or Addendum. Failure to provide any requested information or to follow these procedures may result in the rejection of your Bid.
5. **BID DOCUMENT MISTAKES:** The Bidder shall not be allowed to modify or correct mistakes in the Bid document after the opening of the Bid, unless the mistake is determined to be non-judgmental by the Purchasing Manager. Failure to complete the entire Bid accurately may result in declaring the Bid as non-responsive and the Bid may be rejected.

Bids may be withdrawn by the Bidder after submission for revisions or modifications at any time prior to the deadline for receipt of Bids (or Bid opening). Any such request for withdraw must be in writing either by email or other acceptable electronic manner as outlined in the Bidding documents, hand delivered or mailed communication. After Bids are opened, they shall be irrevocable for the period specified in the Bid documents, unless a nonjudgmental mistake (such as a math error), as determined by the Purchasing Manager, is suspected by the Purchasing Manager or the Bidder, or unless Bidder is permitted to withdraw their Bid pursuant to Arkansas State Law. If a nonjudgmental mistake is suspected, such as a math error, the Bidder shall submit a written request to the Purchasing Department requesting either to withdraw their Bid submission or to correct the nonjudgmental mistake. In the event that the City becomes aware of the mistake prior to the Bidder, the Bidder shall respond within two (2) days of receiving notification of the discovery with a written request to the Purchasing Department to verify a correction or requesting to withdraw their Bid. Any such request for withdraw or correction must be in writing either by email (or other acceptable electronic manner as outlined in the Bidding documents), hand delivered or mailed communication. Once a Bid has been verified, it shall be considered submitted, as verified.

- (1) In the event of discrepancy between a unit price and an extended price, the unit price shall govern.
- (2) At no point shall a correction of a mistake result in reduction or increase of a Bidder's unit price(s). If correction of the mistake would result in either an increase or decrease in the unit price, the Bid shall be considered nonresponsive and shall be rejected.

The City shall permit a Bidder to withdraw its Bid without penalty or forfeiture of Bid security if: (a) a nonjudgmental mistake is evident on the face of the Bid, or (b) the Bidder establishes by clear and convincing evidence that a nonjudgmental mistake was made.

6. **ACCEPTANCE OF OFFER:** The submitted Bid is considered an offer on the part of the Bidder; such offer is deemed accepted upon issuance by the City of a Purchase Order, Notice of Award, Contract or other contractual or otherwise binding document.

Bidders accept all terms and conditions herein upon submission of their signed Bid.

7. **FIRM PRICES:** By submitting the Bid, Bidder signifies that the prices, terms and conditions quoted in their Bid will be firm for acceptance for a period of not less than the bid guarantee Bid stated herein unless otherwise specified in the solicitation. Prices quoted must remain firm for the period of performance of any resulting purchase order or contract to be performed over a specified period of time as indicated in the solicitation.

UNIT PRICES: Unit prices and all other pricing shall be rounded to the nearest cent. In the event of discrepancy between the unit price and the extended price, the unit price shall govern. At no point shall a correction of a mistake result in reduction or increase of a Bidder's unit price(s). If correction of the mistake would result in either an increase or decrease in the unit price, the Bid shall be considered nonresponsive and shall be rejected.



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8. **CONTRACT RENEWAL:** The City reserves the right to renew any contract resulting from this solicitation at the same prices, specifications, terms and conditions, upon mutual agreement between the City and the contractor.
9. **ESTIMATED QUANTITIES:** Whenever a Bid requests prices to be firm for a period of performance, the quantities or usages shown are estimated only with no guarantee made by the City. The quantities are for the Bidder's information only, and the City will be bound only for actual quantities ordered.
10. **DISCOUNTS:** Cash discounts will be considered in determining the award. Unless otherwise indicated in the IFB, discounts offering 10 days or more will be taken by the City's Accounts Payable Division, with payment made on the nearest pay period after receipt, inspection and acceptance of articles, and receipt of correct invoice(s).
11. **SAMPLES:** Samples of items, when required, must be submitted within the time specified at no expense to the City. If not destroyed by testing, samples may be returned at the Bidder's expense unless otherwise indicated in the solicitation.
12. **AWARD:** Award will be made to the lowest most responsive and responsible Bidder, which will be judged on the basis of price, conformance to specifications, quality, delivery time, references, past performance, payment terms, and in the best interest of the City of Bentonville, all factors being considered.

The City reserves the right to accept or reject any or all Bids or part of Bids, to waive irregularities and technicalities, and to request rebids on the material described in the solicitation for any reason.

The Purchasing Manager has the authority to cancel award of a solicitation if, in their discretion and the City Department's (over the project) discretion, Bids received do not meet the City's needs or for any other reason where award would not be in the City's best interest.

The City reserves the right to award the contract on a split-order basis, lump-sum or individual-item basis, or any other combination that is in the best interest of the City unless otherwise specified herein.

Conditional Bids are not acceptable and are subject to rejection in whole or in part at the sole discretion of the City.

In the event of two (2) or more identical low Bids, award will be made to the lowest and most responsive and responsive Bidder as determined by the City through the Bid evaluation process.

No order or contract resulting from this solicitation may be assigned, transferred, or delegated to another party without the written approval of the Purchasing Manager and Finance Director.

13. **BRAND NAMES:** If brand names, make, name of any manufacturer, trade name, or vendor catalog number are specified in these Bid documents, it is for the purpose of establishing a grade or quality of material only. When the City does not wish to rule out other brands or makes, the phrase OR EQUAL (OR EQUIVALENT, OR ALTERNATE) is added. However, if a product other than that specified is Bid, it is the Bidder's responsibility to identify such product in their Bid and prove to the City that the product is equal to or better than the product specified. Unless otherwise indicated, evidence in the form of samples may be requested if the proposed brand is other than that specified by the City. Such samples are to be furnished as specified in the solicitation or upon request of the City. Any samples requested by the City must be received by the City no later than four (4) days after formal request is made. The decision to accept a proposed item is solely the City's.



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PURCHASING DEPARTMENT
ADMINISTRATIVE SERVICES BUILDING
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14. **VARIATIONS OF SPECIFICATIONS:** For purposes of evaluation, Bidder must indicate any variances from any provision, specification, or condition stated in this solicitation, no matter how slight. If Bidder does not indicate any variations, it will be assumed that the product or service fully complies with the provisions, specifications, or conditions as stated. If the City determines that variances exist in the specification which the Bidder did not indicate (or falsely represented a lack of variances), the City reserves the right to declare the Bid non-responsive and reject the Bid from that Bidder. If satisfactory Bids are not received for the City's specifications, the City reserves the right to consider alternate Bids containing deviations from stated specifications.
15. **QUALITY:** Unless otherwise identified in the solicitation, all materials used in the manufacture or construction of supplies, materials or equipment covered by this solicitation shall be new. The items Bid must be the latest make or model in current production, as offered to commercial trade, and of the highest quality material and workmanship. Used, shopworn, demonstrator, prototype, or discontinued models are not acceptable.
16. **ECO-FRIENDLY (GREEN) PRODUCTS:** The City of Bentonville supports the use of products that are ecologically friendly to the environment. Bidders are urged to include information with their Bid that describes the human health and environmental impact of products proposed. This eco-friendly approach takes into account, but is not limited to, waste production, energy and water use, greenhouse gas emissions, indoor air quality, recycled and reused content and packaging, and the presences of hazardous substances. Consideration may be given to these eco-friendly products when compared to mainstream products in cost and packaging.
17. **MATERIAL SAFETY DATA SHEET (MSDS):** It is mandatory for a manufacturer, supplier, or distributor of hazardous material to supply an MSDS as required by 29CFR 1910.1200 with the first shipment. Any time the content of an MSDS is revised, the vendor is required to provide a new MSDS to the City.
18. **ACCEPTANCE OF MATERIAL:** The material delivered under this Bid shall remain the property of the seller until a physical inspection and actual usage of this material and/or service is made and is accepted by the City. It must comply with the terms of this IFB, and fully comply with specifications, and be of the highest quality. In the event the material and/or services supplied to the City is found to be defective or does not conform to specifications, the City reserves the right to cancel the order upon written notice to the contractor and return product to contractor at the contractor's expense. In the event that the City does not cancel the order but requests Bidder to bring the item(s), material(s) or service(s) to specification (correct the items), the corrections must be made at the awarded Bidder's expense and responsibility and must be completed within a timely manner as indicated by the City. If Bidder attempts to correct the item, material or service but fails to do so, or fails to do so in a timely manner, the City may elect to cancel the order at the awarded Bidder's expense.
19. **CODES AND REGULATIONS:** All products supplied and work performed within the scope of this request shall be supplied by the successful Bidder to all applicable current prevailing City, State and Federal codes and regulations.
20. **DELIVERY:** Bidders must complete the Delivery Section of this IFB. Delivery time may be considered in making an award. The City reserves the right to cancel any order, or any part of that order, without obligation if delivery is not made within the time(s) specified on in this IFB.

The City may grant additional time for delivery if the City is satisfied the delay is beyond the control of the awarded Bidder. Any request for time extension must be in writing and approved by the City's authorized representative.

All deliveries shall be FOB Destination to the location listed on the purchase order, contract, other approved form or as specified in this IFB unless otherwise specified by the City. Bidders may be requested to provide separate pricing for delivery of all items in this solicitation.



CITY OF BENTONVILLE, ARKANSAS
PURCHASING DEPARTMENT
ADMINISTRATIVE SERVICES BUILDING
1000 SW 14TH STREET BENTONVILLE, AR 72712
(479)-271-3115 – purchasing@bentonvillear.com

21. **THIRD PARTY FREIGHT SERVICE:** The City of Bentonville may, at its discretion, use a third party freight service to arrange for delivery of the goods ordered as a result of this solicitation. In this case, the freight terms will be FOB Destination/Third Party Prepaid.
22. **PRICE CHANGES ON CONTRACTS:** If this solicitation is for an estimated quantity of supplies, consideration in awarding Bid for yearly contracts will be given:
- First to Bidder offering firm prices for full contract period; and
 - Second to Bidder offering firm prices subject to market price adjustment.
23. **COPYRIGHT OR PATENT RIGHTS:** By submitting the Bid, Bidder signifies that there has been no violation of copyrights or patent rights in manufacturing, producing or selling the goods shipped or ordered as a result of the Bid, and Bidder agrees to hold the City harmless from any and all liability, loss, or expense caused by any such violation.
24. **CONFLICT OF INTEREST:** The contractor, by signing the Bid form in the solicitation or by acceptance of any purchase order resulting from this solicitation, certifies that to the best of their knowledge or belief, no elected or appointed official of the City is financially interested, directly or indirectly, in the purchase of the goods or services specified on this order or in the contract.
25. **TAXES:** The City of Bentonville is not tax exempt from any taxes imposed by the State and/or Federal Government. Applicable taxes should be included on all bids.

The City of Bentonville sales tax rate is 9.5%; all products shall be delivered to the City of Bentonville or work shall be performed within City limits.

It is the responsibility of the Bidder to include sales tax in their Bid when applicable regardless of the Bidder's ability to remit sales tax to the State of Arkansas. In no event should applicable taxes cause the City to pay more than the submitted Bid price.

26. **MANUFACTURER'S CERTIFICATION:** The City reserves the right to request from Bidders a separate manufacturer certification of all statements made in the Bid. Failure to provide any requested certification may result in rejection of Bid or termination of contract for which the Bidder must bear full liability.
27. **TERMINATION:** Subject to the following provisions, any contract resulting from this solicitation may be terminated by either party upon thirty (30) days advance written notice to the other party; but if any work or service is in progress but not completed as of the date of termination, then said contract may be extended upon written approval of the City until said work or services are completed and accepted. Types of termination include, but are not limited to:
1. Termination for Convenience
In the event that the contract is terminated or cancelled upon request and for the convenience of the City, without the required thirty (30) days advance written notice, then the City shall negotiate reasonable termination costs, if applicable.
 2. Termination for Cause
Termination by the City for cause, default or negligence on the part of the contractor shall be excluded from the foregoing provision; termination costs, if any, shall not apply. The thirty (30) days advance notice requirement is waived in the event of termination for cause.



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PURCHASING DEPARTMENT
ADMINISTRATIVE SERVICES BUILDING
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3. Termination Due to Unavailability of Funds

When funds are not appropriated or otherwise made available to support continuation of performance, the contract shall be cancelled at the discretion of the City and without penalty to the City.

28. **W-9 REQUIREMENT:** The City of Bentonville requires a Form W-9 (Request for Taxpayer Identification Number and Certification), updated annually, from all contractors that do business with the City of Bentonville. The Form W-9 verifies the Tax Identification Number of the contractor so the City can correctly report to the IRS all funds paid to the contractor.
29. **DEFAULT OF CONTRACT:** In case of default by the contractor, the City may procure the items or services from other sources and hold the contractor responsible for any excess costs caused by such procurement. Failure of a Bidder to furnish the equipment, supplies, material, and/or services as specified is cause for elimination of the Bidder from the active Bidder's list for the products or services concerned.
30. **BID BOND:** If required in this solicitation, Bidders shall include a Bid guarantee in the form of a Bid bond, certified check, cashier's check in the amount of five percent (5%) of the base Bid, payable without condition to the City of Bentonville. Personal or company checks are not acceptable. The Bid bond shall be accompanied by a power of attorney showing the authority of the person executing the bond on behalf of the surety company and shall adhere to any other requirements regarding Bid Bonds as set forth in this IFB document. Failure to include a Bid bond or Bid guarantee with your Bid submission when required will result in automatic rejection of the Bid. Bid guarantees (submitted by certified or cashier's checks) will be returned to unsuccessful Bidders when the successful Bidder is determined and the contract is executed.
31. **PERFORMANCE & PAYMENT BOND:** At the discretion of the City, a performance bond may be required under the contract resulting from this solicitation. Such bond must be of a type and amount suitable for the nature of the commodity or services purchased and for the full dollar amount of the contract as indicated in this solicitation. The performance bond shall be for the duration of the contract, guaranteeing the faithful performance of the contract and payment of all of Contractor's subcontractors and/or vendors, and otherwise conditioned as required by law. The Performance and Payment Bonds shall be accompanied by a power of attorney showing the authority of the person executing the bond on behalf of the surety company and shall conform to all other requirements for these bonds as specified in this IFB document. Bond forms must be executed with a surety company licensed to do business in the State of Arkansas. The cost of the bond shall be included in the Bidder's offer; at no time will the City be liable for the costs associated with a Performance and/or Payment Bond.
32. **MODIFICATIONS FOR CHANGES:** No agreement or understanding to modify this solicitation and resultant purchase orders or contract shall be binding upon the City unless made in writing by the Purchasing Department of the City of Bentonville.
33. **ORDER OF PRECEDENCE:** In the event of an inconsistency between provisions of the solicitation, the inconsistency will be resolved in the following order: (a) the IFB document; (b) Additional Terms and Conditions and Instructions to Bidders; (c) special provisions; (d) other provisions of the contract, whether incorporated by reference or otherwise; and, (e) the specifications.
34. **WARRANTY:** Supplies or services furnished as a result of this solicitation shall be covered by the most favorable commercial warranties, expressed or implied, that the Bidder and/or manufacturer gives to any customer. The rights and remedies provided herein are in addition to and do not limit any rights afforded to the City by any other clause of this Bid. The City reserves the right to request from Bidders a separate manufacturer certification of all statements made in the Bid.



CITY OF BENTONVILLE, ARKANSAS
PURCHASING DEPARTMENT
ADMINISTRATIVE SERVICES BUILDING
1000 SW 14TH STREET BENTONVILLE, AR 72712
(479)-271-3115 – purchasing@bentonvillear.com

35. **PAYMENT:** Payment for materials or services received under this contract will be made upon completion of delivery for each purchase order and submission of invoice to the Accounts Payable Department, 1000 SW 14th Street, Bentonville, AR 72712. Normal payment terms are payment via check within fourteen days from receipt of invoice.
36. **GOVERNING LAW:** Any agreement resulting from this solicitation shall be interpreted under and governed by the laws of the State of Arkansas.
37. **ESCALATION/DE-ESCALATION CLAUSE:** In the event prevailing market conditions warrant an adjustment in contract pricing, the following escalation/de-escalation clause shall be the only clause acceptable to the City:
1. Contractor shall give written notice to the Purchasing Department of any proposed changes from contract prices not less than fifteen (15) calendar days prior to the effective date of price changes.
 2. Such notice must be accompanied by a copy of the supplier's notification to the contractor of a justifiable price change.
 3. No price escalation will be authorized in excess of the amount of the increase indicated on the supplier's notice.
 4. The approved price change shall be honored for all orders received by the contractor after the effective date of such price change.
 5. Approved price changes are not applicable to orders already issued and in process at time of price change.
 6. The City reserves the right to audit and/or examine any pertinent books, documents, papers, records, or invoice relating directly to the price increase after reasonable notice and during normal business hours.
 7. The Purchasing Department retains the right to determine whether or not such proposed price changes are in the best interests of the City.
 8. If in the opinion of the Procurement Department any proposed increase is found unacceptable, the Purchasing Department reserves the right to cancel the contract upon fifteen (15) calendar days' written notice.
 9. Contractors must tie any price change clause to an industry-wide or otherwise nationally recognized index or some other form of verifiable document. Contractor will put the Procurement Department on the mailing lists for such publications so the Purchasing Department can monitor said changes. Such membership will be at no cost to the City.
 10. If parties to the contract cannot agree on renewal terms, it is understood that the contract will be cancelled and a new contract will be solicited.
38. **ADDITIONAL INFORMATION:** Additional information may be obtained from the Purchasing Department at (479) 271-3115.



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PURCHASING DEPARTMENT
ADMINISTRATIVE SERVICES BUILDING
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APPENDIX A
VENDOR DISCLOSURE
(REQUIRED RESPONSE DOCUMENT)



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PURCHASING DEPARTMENT
ADMINISTRATIVE SERVICES BUILDING
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Contractor/Vendor Disclosure

THIS DOCUMENT MUST BE COMPLETED AND INCLUDED IN ANY SUBMISSION

Company Name: WTEquipment - WILLIAMS TRACTOR
DBA BOBCAT OF NWA

Identify each employee of the City Of Bentonville to whom you, any of your Employees owning more than 5% interest in your Company, or are a Director/Executive/Decision Maker of your Company are immediately related.

Immediate Relation includes:

- Spouse/Domestic Partner
- Parents-Natural or Legal/Step/In Laws
- Children/Step, Siblings-Whole/Half/Step/ In Laws
- Grandchildren/Step, Great Grandchildren.

OR



Check this box if there are no applicable relationships to disclose.

Failure to disclose shall be considered a material breach and grounds for immediate termination of this contract/agreement. **Note: Any change in circumstances resulting in a conflict or appearance of a conflict shall be reported within 30 days of change of circumstance.**

GLG Initials



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APPENDIX B **SPECIFICATIONS** **(REQUIRED RESPONSE DOCUMENT)**



APPENDIX B: SPECIFICATIONS

BIDDERS: THIS SECTION CONTAINS REQUIRED RESPONSE FIELDS

- **AS SPECIFIED:** Bidder must indicate, "AS SPECIFIED", by placing an "X" in the designated space ('As Specified') provided.
- **EQUIVALENT:** Bidders must indicate (and describe) any item being offered to the City that does not fully conform to the City's specification but is being offered to the city as being an "EQUIVALENT" (including alternate or substitute) to the City's specifications. It is the responsibility of Bidders to demonstrate and provide clear evidence of the item's equivalency to the City's specification. The City shall have the final determination as to whether an item is equivalent and meets the City's needs.

The specifications in this Section do not necessarily include all specifications and/or requirements for this IFB. Bidder is responsible for the complete review of this IFB document and all appendixes, any issued clarifications, addenda, or any other document released by the City related to this IFB and for familiarizing themselves with the work to be performed and/or products to be supplied prior to submitting a bid to ensure accurate pricing.

lb(s) – pound(s) lbf – pound-force GPM – gallons per minute L/min – liters per minute mph – miles per hour
km/hr – kilometers per hours PSI – pounds per square inch kPA - kilopascal

1. GENERAL SPECIFICATIONS			
SPECIFICATION LINE NUMBER	SPECIFICATION DESCRIPTION	BIDDER INDICATE IN THIS COLUMN IF 'AS SPECIFIED'	BIDDER INDICATE IN THIS COLUMN IF 'EQUIVALENT'
1	Bidder has examined this entire Bid Packet, including all attached appendices and agrees to perform the work and provide the materials as specified.	X	
2	The awarded Bidder shall follow all federal, state and local safety regulations and laws.	X	
3	Bidder is an authorized seller of the Unit proposed in Bidder's Bid.	X	
4	Bidder understands that Bidder's TOTAL BID PRICE is inclusive of ALL costs to the City, including SALES TAX. THE CITY OF BENTONVILLE IS NOT TAX EXEMPT AND PAYS SALES TAX ON HEAVY EQUIPMENT (equipment not registered to travel on the road).	X	
5	The awarded Bidder shall be responsible for furnishing all materials and labor required to deliver the product(s) as specified to the City.	X	
2. GENERAL UNIT SPECIFICATIONS			
6	One (1) 2022 or current model Compact Long Arm Excavator, as specified	X	
7	Engine: • Minimum 49 horse power (Society of Automotive Engineers net) • Glow plugs • 120 volt Block heater	X	



CITY OF BENTONVILLE, ARKANSAS
PURCHASING DEPARTMENT
ADMINISTRATIVE SERVICES BUILDING
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SPECIFICATION LINE NUMBER	SPECIFICATION DESCRIPTION	BIDDER INDICATE IN THIS COLUMN IF 'AS SPECIFIED'	BIDDER INDICATE IN THIS COLUMN IF 'EQUIVALENT'
8	Electrical: • 12 Volt • Engine Block Heater	X	
9	Operating weight (including cab): 12,565 lbs	X	
10	Cab: • AM/FM Radio with Bluetooth • Cloth seat • Heat • Air Conditioning	X	
11	Performance: • Minimum Arm Digging Force: 5,962 lbf • Minimum Lift capacity at ground level with blade down: 6,534 lbs	X	
12	Working Range: • Maximum Reach at ground level: 247.2 inches • Maximum dump height: 166.5 inches • Dozer Blade with bolt on cutting edge and float ○ 25 degrees left and 25 degrees right hydraulic angle blade • Tail swing over hang shall be no more than 0.5 inches • There shall be no protrusion from swing cylinder casting during boom swing left. ○ Boom swing left shall be no less than 75 degrees ○ Boom swing right shall be no less than 50 degrees	X	
13	Drive System: • Each track shall be independently driven by a hydraulic motor. • Travel Speeds shall be no less than: ○ Low: 1.8 mph (2.8 km/hr) ○ High: 2.8 mph (4.5 km/hr)	X	
14	Undercarriage: • Track Rollers shall be sealed. • Track Adjusters shall be grease-type with shock absorbing recoil springs. • Rubber tracks shall be standard equipment. • Excavator shall have multiple tie down points available along the track roller frame. • Rubber track ground pressure shall not exceed 4.39 psi (30.3 kPa).	X	



SPECIFICATION LINE NUMBER	SPECIFICATION DESCRIPTION	BIDDER INDICATE IN THIS COLUMN IF 'AS SPECIFIED'	BIDDER INDICATE IN THIS COLUMN IF 'EQUIVALENT'
15	Controls: - Excavator direction, steering, and travel speed shall be controlled by two hand or foot levers. - Thumb buttons control auxiliary hydraulics and boom swing. - Blade control shall be a separate lever with float function. - Excavator slew, bucket, boom and arm functions shall be controlled by two joysticks. - Excavator Functions shall be selectable between ISO and Standard controls.	X	
16	Hydraulic System: - Total hydraulic pump capacity shall be capable of providing no less than 36.6 GPM (138.5 L/min) - Primary auxiliary circuit shall be capable of providing no less than 20.0 GPM (75.7 L/min) for attachment operation. - Second auxiliary circuit shall be capable of providing no less than 12.0 GPM (45.4 L/min) for attachment operation - Variable flow auxiliary hydraulics shall be standard equipment. - Shall include flush-face quick couplers. - Boom and Arm cylinders shall have end of stroke cushioning. - Auxiliary quick couplers shall be flush faced couplers and mounted on the arm.	X	
17	Attachments: - All attachments must be mounted on a quick-change mechanism. - Quick-change mechanism will maintain original bucket to arm geometry. - Quick-change shall not diminish published bucket or arm digging forces. - Hydraulic Thumb. Hydraulics must be fingertip controlled at the joystick.	X	
18	Buckets: 18 inch Trenching bucket with teeth 36 inch Smooth Edge Hydraulic Tilting bucket for ditch reclaiming. Hydraulics must be fingertip controlled at the joystick.	X	



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SPECIFICATION LINE NUMBER	SPECIFICATION DESCRIPTION	BIDDER INDICATE IN THIS COLUMN IF 'AS SPECIFIED'	BIDDER INDICATE IN THIS COLUMN IF 'EQUIVALENT'
19	Current City Owned Attachments Required to be compatible with Proposed Unit: • Bobcat HB980 Hydraulic Breaker with Nail Point. Hydraulics must be switch controlled at the joystick. • Bobcat Part #7225485: 40 inch Flail Mower. (Port Relief Required) Hydraulics must be switch controlled at the joystick.	X	

20. WARRANTIES (REQUIRED RESPONSE)

Bidder shall indicate warranties available for the Unit(s) and Items within the specified Unit(s) below.

Product Warranties:

Bidder shall furnish any and all product warranties available to the City.

☒ Agree (As Specified) ☐ Disagree (required to include reasoning below, "no applicable warranties" is an acceptable response)

Reasoning: _____

Warranties Provided:

2 YEAR / 2,000 HOUR STANDARD FACTORY WARRANTY
AS STATED ON ADDED PAGE # W1
ALL EXTENDED WARRANTY OPTIONS ADDED TO PACKET
AS PAGE # W2 & # W3

WARRANTY

WARRANTY

Bobcat Excavators

Bobcat Company warrants to its authorized dealers and authorized dealers of Bobcat Equipment Ltd., who in turn warrant to the owner, that each new Bobcat excavator with a delivery date on or after January 1, 2019 will be free from proven defects in material and workmanship with respect to (i) all components of the product except as otherwise specified herein for twenty-four (24) months, or a total of 2000 hours of use, whichever occurs first, (ii) tracks for twelve (12) months on a prorated basis based on the remaining depth of the track at the time any defect is discovered, (iii) Bobcat brand batteries, for an initial twelve (12) month warranty period and for an additional twelve (12) months thereafter, Bobcat Company shall reimburse a fixed portion of the cost of replacing the battery as designated by Bobcat in the event of a proven defect and (iv) auxiliary hydraulic quick couplers for six (6) months or 200 hours of use, whichever occurs first. The foregoing time periods shall all commence after delivery by the authorized Bobcat dealer to the original buyer.

During the warranty period, the authorized Bobcat dealer shall repair or replace, at Bobcat Company's option, without charge for parts and labor, any part of the Bobcat product except as otherwise specified herein which fails because of defects in material or workmanship. The owner shall provide the authorized Bobcat dealer with prompt written notice of the defect and allow reasonable time for repair or replacement. Bobcat Company may, at its option, require failed parts to be returned to the factory. Travel time of mechanics and transportation of the Bobcat product to the authorized Bobcat dealer for warranty work are the responsibility of the owner. The remedies provided in this warranty are exclusive.

This warranty does not cover replacement of scheduled service items such as oil, filters, tune-up parts, and other high-wear items. This warranty does not cover damages resulting from abuse, accidents, alterations, use of the Bobcat product with any accessory or attachment not approved by Bobcat Company, air flow obstructions, or failure to maintain or use the Bobcat product according to the instructions applicable to it.

THIS WARRANTY IS EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES AND CONDITIONS, EXCEPT THE WARRANTY OF TITLE. BOBCAT COMPANY DISCLAIMS ALL OTHER WARRANTIES AND CONDITIONS, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. IN NO EVENT SHALL BOBCAT COMPANY OR THE AUTHORIZED BOBCAT DEALER BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES, WHATSOEVER, INCLUDING, BUT NOT LIMITED TO, LOSS OR INTERRUPTION OF BUSINESS, LOST PROFITS, OR LOSS OF MACHINE USE, WHETHER BASED ON CONTRACT, WARRANTY, TORT, NEGLIGENCE, STRICT LIABILITY, STATUTE OR OTHERWISE, EVEN IF BOBCAT COMPANY OR THE AUTHORIZED BOBCAT DEALER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE TOTAL LIABILITY OF BOBCAT COMPANY AND THE AUTHORIZED BOBCAT DEALERS WITH RESPECT TO THE PRODUCT AND SERVICES FURNISHED HEREUNDER SHALL NOT EXCEED THE PURCHASE PRICE OF THE PRODUCT UPON WHICH SUCH LIABILITY IS BASED.



W 1



Quote Date : 7/22/2022

* Pricing is valid through the end of the month

Dealer Information

Name : BOBCAT OF NWA
Address : 2737 West Hudson Road
City : Rogers
State : Ar
Zip Code : 72756

Salesperson : Gary Green
Email : gggreen@williamstractor.com

Equipment Information

Model Number : E50 R2
Serial Number :
Delivery Date :

SLP USD	Full				
	Hours				
Months	1500	2000	3000	4000	5000
24	STANDARD	STANDARD	\$1500	\$2200	\$3200
36		\$900	\$1900	\$2800	\$4000
48		\$1300	\$2700	\$3900	\$5700
60		\$1600	\$3400	\$5000	\$7300

SLP USD	Powertrain + Hydraulics				
	Hours				
Months	1500	2000	3000	4000	5000
24			\$1100	\$1600	\$2300
36		\$700	\$1400	\$2000	\$2900
48		\$900	\$1900	\$2800	\$4100
60		\$1200	\$2400	\$3600	\$5200

SLP USD	Powertrain				
	Hours				
Months	1500	2000	3000	4000	5000
24			\$900	\$1300	\$1800
36		\$600	\$1100	\$1600	\$2200
48		\$700	\$1500	\$2100	\$3000
60		\$900	\$1800	\$2700	\$3800



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W2



Quote Date : 7/22/2022

* Pricing is valid through the end of the month

SLP USD	Full + Planned Maintenance				
	Hours				
Months	1500	2000	3000	4000	5000
24			\$9400	\$12300	\$15300
36	\$4650	\$6300	\$9500	\$12500	\$15500
48	\$4750	\$6400	\$9600	\$12700	\$15800
60	\$4750	\$6500	\$9800	\$12900	\$16100



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W3



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PURCHASING DEPARTMENT
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FOR PUBLICATION

PUBLICATION DATES: JULY 3, 2022

NOTICE TO BIDDERS

2022 OR CURRENT MODEL COMPACT EXCAVATOR (LONG ARM), AS SPECIFIED

Invitation For Bid (IFB)-22-75

The City of Bentonville is accepting formal sealed bids for the one-time purchase and delivery of one (1) 2022 or current model Bobcat E50-R2 Compact Long Arm Excavator, as specified, or equivalent Unit, for the City of Bentonville Street Department.

The City reserves the right to cancel this request at any time in accordance with the City's best interest. The City also reserves the right to reject any Bid received and to waive irregularities in accordance with the City's best interest.

The City of Bentonville Purchasing Department encourages all qualified small, minority and women owned businesses to participate and submit Bids for City projects/purchases.

Interested parties can obtain the required Bid Packet by emailing purchasing@bentonvillear.com, by calling 479-271-3115, or from the Purchasing Department located at the address below. The Bid Packet may also be downloaded from the Purchasing Page of the City's website (<http://www.bentonvillear.com/211/Purchasing>) by clicking 'Review Open Bids'; however, Bidders are encouraged to notify Purchasing that they have downloaded the Bid Packet to ensure they are on the distribution list for Addenda and/or Q&A. Interested Parties should note that there may be a 24-48 hour delay from the date of publication for the documents to be available on the City's website.

Bidders who wish to deliver a Bid Submission prior to the Bid Opening date/time may do so by delivering the Bid Submission to the Purchasing Department located at the address below. Bidders may also choose to deliver their Bid Submission at the Public Bid Opening, but must do so prior to the Public Bid Opening time.

There will be a Public Bid Opening for IFB-22-75 held at 2:00 PM CST on Monday, July 25, 2022; the Bid Opening will be held at the City of Bentonville Administrative Services Building-Purchasing Department, in Room A239 on the 2nd floor, located at 1000 SW 14th Street Bentonville, AR 72712. All Bid Submissions must be received by Purchasing prior to the Public Bid Opening time. Late Submissions and unsigned Submissions will be rejected, without exception. In accordance with Arkansas Procurement Law and Rules, it is the responsibility of vendors to submit responses at the designated location on or before the Bid Opening date and time. Responses received after the designated Bid Opening date and time will be considered late and will be rejected.

Questions must be submitted via written communication only to purchasing@bentonvillear.com. The deadline to submit questions related to this Invitation is July 19, 2022, at 4:30 PM CST.

DEPARTMENT RESPONSIBLE FOR ADVERTISING COSTS: ACCOUNTING



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ADMINISTRATIVE SERVICES BUILDING
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INVITATION FOR BID (IFB) SOLICITATION

SOLICITATION INFORMATION			
Bid Number:	IFB-22-75	Date of Issuance:	JULY 3, 2022
Description:	2022 OR CURRENT MODEL COMPACT EXCAVATOR (LONG ARM), AS SPECIFIED		
Requesting Department:	CITY OF BENTONVILLE STREET DEPARTMENT		
Purchasing Department (Buyer):	ANDREA TREVISAN		
Pre-Bid Meeting Information:	NO PRE-BID MEETING SCHEDULED FOR THIS SOLICITATION		
Bid Bond Requirement:	NO BID BOND REQUIRED		

BID OPENING DATE & TIME	
Bid Opening Date and Time:	JULY 25, 2022 AT 2:00 PM CST
Bid Opening Location:	City of Bentonville Administrative Services Building Bid Opening Room – 2 nd Floor – Room A239 1000 SW 14 th Street Bentonville, AR 72712

DELIVERY OF BID SUBMISSION	
Location (and mailing address) for Bid Submission Delivery:	City of Bentonville Administrative Services Building Purchasing – 2nd Floor 1000 SW 14 th Street. Bentonville, AR 72712
Bid Submission Requirements:	All Bids must be received by the Purchasing Office prior to the date and time listed herein for the Bid opening, in a sealed envelope with the following information clearly marked on the outer envelope: - Solicitation ID (IFB Number) - Bidder's Name/Company Name & Phone Number Bids which must be opened to be identified may be rejected. Bids which are not sealed or are opened upon delivery will not be accepted. Late Bids, unsigned Bids, or Bids which do not contain a Bid bond (when required) will be rejected, without exception. In accordance with Arkansas Procurement Laws and Rules, it is the responsibility of the Bidder to submit their Bid submission correctly and to the designated location prior to the Bid opening time.

Deadline for Submission of Requests for Information, Questions or Clarifications:	July 19, 2022– 4:30 PM CST
<i>Questions should be submitted only to the Purchasing Office via written communication only to purchasing@bentonvillear.com.</i>	



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EXECUTION OF BID PAGE (REQUIRED)

Upon signing this Bid, the Bidder certifies that he/she has read and agrees to the requirements set forth in this Bid proposal including specifications, conditions and pertinent information regarding the articles being Bid on, and agrees to furnish these articles at the prices stated. All information on this page must be completed.

Unsigned Bids will be rejected - no exceptions.

Name of Firm: Scott Equipment Company Phone Number: 479-751-4242

Business Address (Full Street/City/State/Zip): 4831 N. Thompson St., Springdale AR 72764

Is this address able to accept mail deliveries (for the purpose of returning Bid bonds etc.): ☒ Yes ☐ No

Name of Contact Person: Randy Moss Email: rmoss@scottcompanies.com

Signature of Authorized Person:  Date: 7/25/22

Printed or Typed Name: Randy Moss Title: Store Manager

Arkansas Contractor's License Number: _____ (Not required unless specified)

Sales or Use Tax ID Number: 72-1436980

Bid Bond Included: ☐ Yes ☒ No (only required if specified in this IFB Document)

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PURCHASING DEPARTMENT
ADMINISTRATIVE SERVICES BUILDING
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SECTION 1: OVERVIEW

1. INTENT

The intent of this Invitation for Bid (IFB) is for the one-time purchase and delivery of one (1) 2022 or current model Bobcat E50-R2 Compact Long Arm Excavator, as specified, or equivalent Unit.

2. REQUIRED RESPONSE DOCUMENTS

The following documents must be complete to provide a complete Bid response package:

- Invitation for Bid (IFB) document, all response fields complete.

3. APPENDIXES

- **APPENDIX A: VENDOR DISCLOSURE (REQUIRED RESPONSE DOCUMENT)**
- **APPENDIX B: SPECIFICATIONS (REQUIRED RESPONSE DOCUMENT)**

SECTION 2: REQUIREMENTS, TERMS & CONDITIONS

BIDDERS: THIS SECTION CONTAINS REQUIRED RESPONSE FIELDS

1. GUARANTEE OF BID

Bidders may not withdraw their Bids for a period of sixty (60) days after the Public Bid Opening. The City of Bentonville has sixty (60) days from the Bid Opening date in which to evaluate Bids and recommend award to City Council if it is determined to be in the City's best interest. Bidders may only withdraw their Bids in accordance with the Terms and Conditions herein.

2. BONDS

A. BID BOND (BID GUARANTEE)

Bidders are required to include a Bid Bond as specified when the 'Bid Bond Required' field below has an "x" mark or when otherwise required in this document.

 Bid Bond Required X Bid Bond Not Required for this Solicitation

All Bids must be accompanied by a Bid Bond/Bid Guarantee in the form of a Bid bond, certified check, or cashier's check in the amount of **(NA)**, payable without condition to the City of Bentonville. The Bond shall not have an expiration date of less than the number of days specified in Section 5 (Guarantee of Bid) of this IFB document. Personal checks and company checks are NOT acceptable as a Bid guarantee.

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B. PERFORMANCE & PAYMENT BOND

The awarded Bidder is required to submit Performance and Payment Bonds at the time of Contract signing when the 'Performance & Payment Bonds Required' field below has an "x" mark or when otherwise required in this document.

☐ Performance and Payment Bond Required ☒ Performance and Payment Bond Not Required for this Solicitation

The awarded Bidder shall furnish Performance and Payment Bonds after the Notice of Award is issued and upon the time of signing the binding Contract, each in an amount at least equal to the Total Bid Price as security for the faithful performance and payment of all of the awarded Bidder's obligations under this Invitation for Bid and the awarded binding Contract. These Bonds shall remain in effect for a period of one (1) year after a formal Completion of Work Notice is issued by the City.

C. BONDS – GENERAL

All bonds shall be executed by such sureties as are named in the list of Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and Management Service, Surety Bond Brand, U.S. Department of the Treasury. All bonds 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 each bond.

If the surety on any bond furnished by the awarded Bidder is declared bankrupt or becomes insolvent or its right to do business is terminated in any state where any part of the Project is located or it ceases to meet the requirements set forth herein, the awarded Bidder shall promptly notify the City and shall, within twenty (20) days after the event giving rise to such notification, provide another bond and surety, both of which shall comply with the requirements set forth herein.

All bonds and insurance required by this Invitation for Bid and by the binding contract documents executed after the Notice of Award, to be purchased and maintained by the awarded Bidder, shall be obtained from surety or insurance companies that are duly licensed or authorized in the jurisdiction in which the work defined herein is to be performed.

3. WARRANTIES

The awarded Bidder shall assume that the City prefers all work (workmanship and materials) and/or items furnished to the City to be warrantied and shall furnish any and all applicable workmanship/material/product warranties to the City.

Bidders shall respond when required in the Warranties portion of the Specifications Section in this IFB Document.

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PURCHASING DEPARTMENT
ADMINISTRATIVE SERVICES BUILDING
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4. LAWS AND REGULATIONS

The Bidder's attention is directed to the fact that all applicable Federal and State Laws, and the rules and regulations of all authorities having jurisdiction over the construction of the project or the purchase or sale of the item(s) shall apply to the contract throughout, and they will be deemed to be included herein and in any awarded contract the same as though herein written out in full.

5. ENCOURAGEMENT FOR PARTICIPATION

Pursuant to Arkansas Code Annotated § 22-9-203, the City encourages all qualified small, minority owned, and women owned business enterprises to submit Bids for capital improvements. Encouragement is also made to all general (prime) contractors that in the event they subcontract portions of their work, consideration is given to the identified groups.

The City of Bentonville Purchasing Department encourages qualified small, minority and women owned businesses to participate and submit Bids for City projects/purchases.

6. QUESTIONS/REQUESTS FOR INFORMATION (RFIs)/REQUESTS FOR CLARIFICATION (RFCs)/ADDENDA

All questions or requests related to this Invitation for Bid shall be directed solely to the Purchasing Department via written communication only, via one of the methods below. A copy of the question and the City's response will be distributed to all known document holders via an 'RFI (Request for Information) Response' or via Addenda (Addendum 1, 2 etc.).

All questions should reference the IFB number when submitted

Submit Via Email: purchasing@bentonvillear.com

Submit Via Mail: City of Bentonville Administrative Service ATTN: Purchasing Office (solicitation number) 1000 SW 14th Street Bentonville, AR 72712

For Phone Calls: (479) 271-3115

The Purchasing Department will not respond to or otherwise acknowledge requests received after the deadline for submission of these requests stated herein. Questions requesting the Bid Opening date, Bid Bond requirement, and other details clearly outlined herein will not be included in RFI Responses or Addenda unless there are changes in the information after the Advertisement has published.

NOTE: No information communicated verbally or in any other form than a formal RFI Response or Addendum shall be considered firm or contractual; only information contained herein or otherwise in an RFI Response or Addendum shall be contractual.

Bidders are required to acknowledge any Addenda issued in their Bid Submission, per the requirements in the Addendum.

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7. EQUIVALENT ITEMS/REFERENCED SPECIFICATIONS

Whenever these specifications mention an item by name and use specific descriptions as reference thereto (such as model, part, brand names etc.), it is intended to convey to the Bidder an understanding of the standard of excellence required. Items that Bidders believe to be of equal type, quality, and size that will conform substantially to the standard of excellence established to provide equivalent merit, strength, durability, and to perform the required function in accordance with these specifications may be offered. Bids containing items proposed as equivalent (or alternate) shall clearly describe the equivalent (or alternate) article being offered and indicate how it differs from the City's original specification and how it conforms to the specification. Descriptive literature or manufacturer's specifications, in addition to any supplemental information necessary for comparison purposes should also be submitted with the Bid. It is the Bidder's responsibility to demonstrate to the City that an equivalent (or alternate)/substitute offer is equivalent to and meets the standard of quality indicated by the City's specifications. The City of Bentonville shall have the final approval of whether a substitute (or alternate) item is equal to the item specified. Submitting false claims that an item is 'as specified' when the item is an alternate or is otherwise not conforming to the specification shall be considered a lack of responsibility and the Bid from that Bidder may be rejected.

8. INDEMNIFICATION

Due to the City statutory tort Immunity, the City does not carry liability insurance for such claims. Accordingly, any contract entered into with the awarded Bidder may not include a clause in which the City agrees that it or its' officials or employees will indemnify the other party.

The awarded Bidder agrees to indemnify the City and hold it harmless against all claims, liability, loss, damage or expense, including but not limited to counsel fees, arising from or by reason of any actual or claimed trademark, patent or copyright infringement or litigation based thereon, with respect to the service or any part thereof covered by this order, and such obligation shall survive acceptance of the services and payment thereof by the City.

9. DAMAGES

Any damage occurring to City (public) or private property within the worksite area(s) or otherwise out of the awarded Bidders performance of this Contract shall be corrected at the awarded Bidder's expense.

The awarded Bidder shall be responsible for maintaining the job site and keeping it clean and orderly. Failure to maintain the cleanliness and orderliness of any job site in relation to this Invitation for Bid shall be considered a service failure, and may result in the City employing City forces for the purpose of job site cleanup and organization. Any costs the City incurs for the purpose of correcting the awarded Bidder's service failure will be deducted from the monies due to the awarded Bidder.

Any damages which occur during the performance of the services described herein shall be immediately communicated to the City's contact, or designated assignee and repaired at the awarded Bidder's expense.



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PURCHASING DEPARTMENT
ADMINISTRATIVE SERVICES BUILDING
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(479)-271-3115 – purchasing@bentonvillear.com

10. PAST PERFORMANCE/REFERENCES

The City reserves the right to request references and to contact those references as part of the evaluation of Bids submitted to this Invitation for Bid. The City reserves the right to use the information gained from contacting references or from reviewing a Bidder's prior performance with the City in the evaluation of Bids, including but not limited to evaluating a Bidder's prior performance of the same or similar scope of work or delivery of items for the City or any other entity for whom the Bidder has performed work. The City reserves the right to request additional information from the apparent low Bidder if it is deemed to be in the City's best interest, and use that information in the evaluation for award based on what is in the City's best interest.

11. TOBACCO PRODUCTS AND LITTERING

The use of tobacco products is only permitted in designated areas marked with proper cigarette disposal containers on site. No disposal of tobacco products or littering of any kind shall be tolerated on the work premises or during performance of work for the City.

12. ARKANSAS FREEDOM OF INFORMATION ACT (FOIA)

By submitting a Bid in response to this IFB, Bidder acknowledges and understands that the City is subject to the Arkansas Freedom of Information Act (FOIA) and City contracts and documents prepared while performing City work are subject to this Act. In the event that a FOIA request is presented to the City, the awarded Bidder agrees to do everything possible to provide any requested documents that they may be in possession of in a prompt and timely manner as prescribed in A.C.A. §25-19-101.

13. BIDDER'S DOCUMENTS

The only terms and conditions that will become part of the award/awarded Contract are those documents issued by the City as part of this IFB, or documents furnished by the awarded Bidder (such as a contract) that are in accordance with the terms and conditions contained in this IFB and/or are approved for Mayor's signature by the City's Legal Department.

Bidder's inclusion of their terms and conditions or other types of documents containing terms and conditions regarding payment, invoicing, indemnification or any other type of term are not accepted based on inclusion in the Bid Submission and will not be acknowledged as conditions to the Bid. No conditional bids will be accepted.

Bidders are required to use ONLY the prescribed City forms in their Bid Submission unless Bidder has included additional information for the City's consideration of an 'equivalent'/'alternate' item (i.e. product data sheets etc. are acceptable).

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PURCHASING DEPARTMENT
ADMINISTRATIVE SERVICES BUILDING
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14. INVOICING

The awarded Bidder shall provide an invoice to the City for review and approval prior to payment. The City will not pay from any document other than an invoice (i.e. payments will not be processed based on contracts etc.).

The invoicing option(s) available to Bidders for this IFB are indicated below by an “x” mark in the option(s) available.

☐ Invoice upon 100% completion (As approved by the City)

☐ Progress invoicing (Payment will be made only for actual work completed and approved by the City and/or for materials stored on the City’s worksite)

☒ Invoice upon delivery (Payment within 14 days)

☒ Invoice 14 days prior to delivery for payment upon delivery
(All product(s) or work must be approved by an authorized
City of Bentonville employee prior to payment being furnished).

Payment will not be made for incomplete work or for item(s) delivered out of spec (not as specified). Any return or correction shall be at the awarded Bidder’s expense. The City reserves the right to cancel an order due to receiving out of spec item(s) or request a replacement, whatever is in the City’s best interest.

Unless otherwise specified, invoices will be paid within fourteen (14) days of receipt of an approved invoice.

All invoices should be submitted to the City of Bentonville Accounts Payable Office, address and email below:

City of Bentonville Administrative Services

ATTN: Accounts Payable

1000 SW 14th ST

Bentonville, AR 72712

accountspayable@bentonvillear.com

15. BIDDER REQUESTED PAYMENT TERMS

Bidders must use the space provided below to communicate their requested payment terms. Requests are not guaranteed for approval.

☒ NET 30 Days from Invoice Submission ☐ NET 60 Days from Invoice Submission ☐ Other (Specify Below)

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CITY OF BENTONVILLE, ARKANSAS
PURCHASING DEPARTMENT
ADMINISTRATIVE SERVICES BUILDING
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16. PRE-BID MEETING

There will be a pre-Bid meeting when indicated by an “x” mark in one of the fields below or when otherwise indicated in this IFB document. If there is an “x” in the “No Pre-Bid Meeting” option, there will not be a Pre-Bid Meeting for this IFB.

☐ **Mandatory Pre-Bid Meeting (Bidder must attend to be eligible to submit a Bid)**

☐ In Person ☐ Zoom or Other Virtual Method

☐ **Optional Pre-Bid Meeting (Bidder attendance is highly encouraged but not required)**

☐ In Person ☐ Zoom or Other Virtual Method

☒ **No Pre-Bid Meeting (There is no pre-Bid meeting scheduled for this IFB)**

17. TERM

The Section with an “x” mark below shall apply to this Invitation for Bid.

☐ **Contract Term (for services, construction projects etc.)**

The awarded Bidder will be required to enter into a binding Contract with the City of Bentonville, for the services listed herein. The term of the awarded Contract shall be ___year(s) renewable annually upon mutual written agreement for a maximum term of ___years.

☒ **Single Purchase (for an item(s) ordered at one time)**

The awarded Bidder will receive a single Purchase Order from the City of Bentonville for the one-time purchase and delivery of the Unit(s). The terms and conditions of the Purchase Order shall be in accordance with this IFB document, all Appendixes attached hereto and any Addenda issued throughout the solicitation.

- A. Delivery shall be made in accordance with the City’s delivery date/time specified herein or otherwise accepted (if alternate delivery dates/times are requested by the Bidder and accepted by the City in the form of award of the Bid or other written agreement).

☐ **Multiple Purchase/Pricing Agreement (for items ordered at various times)**

The awarded Bidder will receive Purchase Orders from the City of Bentonville for the purchase and delivery of the quantities specified in the Purchase Order.

- A. Deliveries must be made to the specified City of Bentonville location within _____ from receipt of the City’s Purchase Order unless otherwise indicated herein and accepted by the City.

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18. SUBCONTRACTORS

If Bidder intends to subcontract portions of the work, the work being subcontracted and the subcontractor being proposed to perform the work must be disclosed in the Bidder's Bid Submission. The City reserves the right to apply all Bid evaluation factors to any proposed subcontractors and to use that information to determine the qualifications of a subcontractor and their suitability to perform the work to the City's specifications/standards.

Bidders must be knowledgeable of and comply with all state, local and federal laws concerning subcontractors performing work for municipal (governmental) projects.

In the event that Bidder intends to subcontract portions of the work, Bidder is required to complete the 'Subcontractor Disclosure' Section of this IFB document.

SUBCONTRACTOR LICENSING IN THE STATE OF ARKANSAS

Subcontractors who submit proposals in excess of \$50,000.00 must have a current Arkansas State Contractor's License.

- a. As a condition to performing construction work for and in the State of Arkansas, all prime contractors shall use no other subcontractors when the subcontractors' portion of the project is Fifty Thousand Dollars (\$50,000.00) or more, except those licensed by the Contractors Licensing Board and qualified in:
 1. Mechanical, indicative of heating, air-conditioning, ventilation, and refrigeration;
 2. Plumbing;
 3. Electrical, indicative of wiring and illuminating fixtures; and
- b. In the event the prime contractor is qualified and licensed by the Contractors Licensing Board, he may use his own forces to perform those tasks listed in this section as subcontractors in one (1) or more of the trades listed.
- c. The prime contractor shall place the names of each subcontractor in a blank space to be provided following the Pricing Sheet of this bid. It shall be mandatory that the a) mechanical, b) plumbing, and c) electrical subcontractors named on the Form of Proposal by the prime contractor awarded a contract under the provision of this Act be given contracts by the prime contractor in keeping with their proposals to perform the items for which they were named. **If the prime contractor is performing the work for the trade listed, they must list their own company in the space provided.**

19. FIELD TESTING

The City of Bentonville reserves the right to field test equipment proposed by the apparent low-Bidder or the apparent two lowest Bids to confirm the proposed Unit(s) meet the City's Specifications. All costs associated with the field test shall be the Bidder's responsibility, including but not limited to transport of the Unit(s) to the City's testing site and pick-up of the Unit(s) upon completion of testing. In no event shall any Bidder assume the City will purchase the proposed Unit(s) based off of the test. Confirmation of award is only received by approval from the Bentonville City Council.

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PURCHASING DEPARTMENT
ADMINISTRATIVE SERVICES BUILDING
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SECTION 3: SCOPE OF WORK & DELIVERY

BIDDERS: THIS SECTION CONTAINS REQUIRED RESPONSE FIELDS

1. SCOPE OF WORK

The Scope of work for this Invitation for Bid (IFB) is for the one-time purchase and delivery of one (1) 2022 or current model Bobcat E50-R2 Compact Long Arm Excavator, as specified, or equivalent Unit.

The delivered unit(s) shall be complete without any defect and shall include all factory, manufacturer and any other warranties applicable, shall be complete with all owner/user manuals and tools that are standard to be delivered with the unit(s).

2. DELIVERY

The City of Bentonville requests (specifies) the below completion and or delivery date(s) as indicated by an "x" mark in the applicable field. **If the requested (specified) schedule cannot be met, Bidder must specify the date(s)/schedule that Bidder is able to commit to in the fields provided. Failure to state a date/schedule obligates the Bidder to perform the work or delivery the item(s) or services and complete services within the City's requested timeline.** Alternate or extended delivery dates may be considered when in the best interest of the City.

Estimated Award Date (not guaranteed, subject to change): _____ August 9, 2022 _____

Delivery/Work-Site Address: _____ 3200 SW Municipal Dr, Bentonville, AR 72712 _____

*Bidders note that a change in the estimated award date will not release Bidder from the specified delivery date(s).

X **One-Time Order Item(s) Delivery Specified Date(s)**

City's Specification:

One-Time Order: All item(s) shall be delivered within thirty (30) days from receipt of the City's Purchase Order.

Bidder Response: AS SPECIFIED ALTERNATE DATES REQUESTED (REQUIRES COMPLETION OF FIELD BELOW)

Alternate Dates Requested: (REQUIRED RESPONSE IF 'ALTERNATE DATES REQUESTED' IS MARKED ABOVE)

One-Time Order: All item(s) shall be delivered within 180 day(s) from receipt of the City's Purchase Order.

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ADMINISTRATIVE SERVICES BUILDING
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SECTION 4: BIDDER ACKNOWLEDGEMENTS

Bidders are required to verify that the following required documents and bonds have been included with their Bid submission or will be furnished when due.

Description	Bidder's Initials												
Invitation for Bid document, executed with all fields complete and thoroughly reviewed.	<u>RM</u>												
Appendix A: Vendor Disclosure, Completed	<u>RM</u>												
Appendix B: Specifications, Completed	<u>RM</u>												
Addenda: Bidders are required to acknowledge all addenda issued for this IFB. Bidders may acknowledge issued addenda either by inclusion in their Bid Submission or by noting the Addendum Number and Date of Issuance below in the fields provided. <table border="0"> <thead> <tr> <th><u>ADDENDUM NUMBER</u></th> <th><u>DATE OF ISSUANCE</u></th> </tr> </thead> <tbody> <tr><td>_____</td><td>_____</td></tr> <tr><td>_____</td><td>_____</td></tr> <tr><td>_____</td><td>_____</td></tr> <tr><td>_____</td><td>_____</td></tr> <tr><td>_____</td><td>_____</td></tr> </tbody> </table>	<u>ADDENDUM NUMBER</u>	<u>DATE OF ISSUANCE</u>	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
<u>ADDENDUM NUMBER</u>	<u>DATE OF ISSUANCE</u>												
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SECTION 5: BID PRICING

Bidder, having examined this Invitation for Bid document in its entirety and having performed a thorough examination of the product specifications hereby agrees to furnish all labor, products, materials, equipment, staging, transportation, and supervision of such, and all other components to deliver Unit(s) in accordance with the specifications contained herein.

Bid prices shall include all costs, **including but not limited to: tax**, all labor, products material, equipment, disposal fees, transportation, staging, mobilization, overhead, profit, insurance, shipping and handling and all other costs to the City of Bentonville, Arkansas to cover the finished work and/or delivered products.

The City of Bentonville is NOT exempt from sales tax. The City of Bentonville Sales Tax is 9.5%.

AWARD OF THIS INVITATION FOR BID WILL BE BASED ON (applicable award method marked with an "x"):

 X **Total Bid Price:** The award will be based on the lowest and most responsible Total Bid Price with all factors considered. The Total Bid Price shall be written in words and in figures. In case of discrepancy between the written amount and the figures, the written amount shall govern. In case of discrepancy between the Unit Price and the Extended Price, the Unit Price shall govern.

Deductive Alternates apply when indicated by an "x" in the fields below

 Deductive Alternates Included X **Deductive Alternates not Included in this IFB**

The City reserves the right to award the project in any manner that is deemed in its best interest, or to reject any or all Bids and to waive any irregularities.

No Bid shall be withdrawn for a period of sixty (60) days after the opening of Bids without the consent of the City; sixty (60) days shall be allowed to the City in which to determine the manner in which to award or not award the Contract.

THE BID FORM IS LOCATED ON THE FOLLOWING PAGE



CITY OF BENTONVILLE, ARKANSAS
PURCHASING DEPARTMENT
ADMINISTRATIVE SERVICES BUILDING
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BID FORM

Line Item	Quantity (Unit of Measure = EA)	Description	Unit Price
1	1	2022 or Current Model Bobcat E50-R2 Compact Long Arm Excavator, as specified Bidder mark here if as specified: _____ Bidder: Specify year/make/model etc. here if alternate/equivalent Unit proposed: <u>2022 Volvo ECR58F</u>	\$ <u>91,583⁰⁰</u>
SALES TAX (If applicable, write "NA" if not applicable. The City does not pay sales tax on vehicles registered to be driven on the road)		\$ <u>8,700³⁹</u>	
TOTAL BID PRICE (Stated in figures)		\$ <u>100,283³⁹</u>	
TOTAL BID PRICE (Stated in words)			

BIDDER DECLARATION

The Undersigned hereby declares that they have carefully examined the Invitation, Scope of Work, Specifications and all other information related to the performance of the work or delivery of materials or items as described herein, has visited the actual location of the work (when applicable), has consulted their sources of supply, has satisfied themselves as to all quantities and conditions, and understands that in signing this proposal, they waive all right to pleas of any misunderstanding regarding the same.

Company Name: Scott Equipment By (Authorized Person's Signature) _____

State of incorporation (required if Company is a corporation): _____

Full names of all partners (required if Company is a partnership): _____

Printed Name and Title: Randy Moss Store Manager

Date: 7/25/22



SECTION 6: INVITATION FOR BID ADDITIONAL TERMS & CONDITIONS/INSTRUCTIONS TO BIDDERS

1. **SCOPE:** These instructions and conditions shall be in force unless otherwise modified by the City in this Bid Document. Bidders shall be advised that the City of Bentonville is not responsible for the content of any Bid package received through any 3rd party Bid service. It is the sole responsibility of the vendor to ensure the completeness of the documents received from any 3rd party source.
2. **DEFINITIONS (AS USED HEREIN):**
 - a. The term "Invitation For Bid" means a solicitation for formal, competitive sealed Bids. The acronym "IFB" means Invitation for Bid. "Solicitation" may also be used throughout to refer to the Invitation for Bid.
 - b. The term "Bid" means the offer by the Bidder.
 - c. The term "Bidder" means the person or organization responding to the Invitation for Bid.
 - d. The term "Contractor" means a person or organization who is the successful Bidder and who enters into a contract with the City.
*At times in this document the terms Bidder and Contractor are interchangeable.
 - e. The term "Change Order" means a written order from or approved by the Purchasing Department directing the Contractor to make changes to a Contract.
 - f. The term "City" means the City of Bentonville, Arkansas.
 - g. The term "City Council" means the governing body of the City of Bentonville, Arkansas.
3. **PREPARATION OF BIDS:** Bidders shall review the specifications, drawings, and all special and general conditions and any other documents included as part of this Invitation for Bid. Bidders are responsible for field verifying work or other means of familiarizing themselves with the Scope of Work of this Invitation for Bid. Failure to do so will be at the Bidder's risk.

Each Bidder shall furnish the information required in the solicitation. The Bidder shall provide their name, address, e-mail address, and telephone number where indicated in the solicitation documents. All signatures must be by an officer or employee having the authority to bind the company or organization by his/her signature and included with the Bid response.

Unit price for each unit offered must be provided. The unit price will be presumed correct.

The Bidder must state a definite time for delivery of supplies or performance of services; in cases where the Bidder does not state a definite time, the City's specified timeline shall apply.

Multiple Bids: Bidders are prohibited from submitting multiple Bids for the same product in response to a competitive sealed Bid solicitation. In the event that a Bidder submits multiple Bids for the same product, all Bids from that Bidder will be rejected.

Exception for Different Models: In the event that the Bidder believes they have multiple different models or products (such as equivalent items) that meet the City's specifications, the Bidder may submit multiple Bids in response to a competitive sealed Bid solicitation as long as the following requirements are met:

- (1) The Bids are submitted in separate sealed envelopes;
- (2) The products being proposed in each submission are different makes, models or otherwise types of products.



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PURCHASING DEPARTMENT
ADMINISTRATIVE SERVICES BUILDING
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4. **SUBMITTING A BID:** Bids must be received by the City of Bentonville Purchasing Department **BEFORE** the time of opening indicated in the solicitation. All references to time shall be Bentonville, Arkansas time (Central Time Zone). Late Bids will be rejected without exception. Any exceptions or additional information required on a solicitation will be noted in the Bid documents or issued via clarification or Addendum. Failure to provide any requested information or to follow these procedures may result in the rejection of your Bid.
5. **BID DOCUMENT MISTAKES:** The Bidder shall not be allowed to modify or correct mistakes in the Bid document after the opening of the Bid, unless the mistake is determined to be non-judgmental by the Purchasing Manager. Failure to complete the entire Bid accurately may result in declaring the Bid as non-responsive and the Bid may be rejected.

Bids may be withdrawn by the Bidder after submission for revisions or modifications at any time prior to the deadline for receipt of Bids (or Bid opening). Any such request for withdraw must be in writing either by email or other acceptable electronic manner as outlined in the Bidding documents, hand delivered or mailed communication. After Bids are opened, they shall be irrevocable for the period specified in the Bid documents, unless a nonjudgmental mistake (such as a math error), as determined by the Purchasing Manager, is suspected by the Purchasing Manager or the Bidder, or unless Bidder is permitted to withdraw their Bid pursuant to Arkansas State Law. If a nonjudgmental mistake is suspected, such as a math error, the Bidder shall submit a written request to the Purchasing Department requesting either to withdraw their Bid submission or to correct the nonjudgmental mistake. In the event that the City becomes aware of the mistake prior to the Bidder, the Bidder shall respond within two (2) days of receiving notification of the discovery with a written request to the Purchasing Department to verify a correction or requesting to withdraw their Bid. Any such request for withdraw or correction must be in writing either by email (or other acceptable electronic manner as outlined in the Bidding documents), hand delivered or mailed communication. Once a Bid has been verified, it shall be considered submitted, as verified.

- (1) In the event of discrepancy between a unit price and an extended price, the unit price shall govern.
- (2) At no point shall a correction of a mistake result in reduction or increase of a Bidder's unit price(s). If correction of the mistake would result in either an increase or decrease in the unit price, the Bid shall be considered nonresponsive and shall be rejected.

The City shall permit a Bidder to withdraw its Bid without penalty or forfeiture of Bid security if: (a) a nonjudgmental mistake is evident on the face of the Bid, or (b) the Bidder establishes by clear and convincing evidence that a nonjudgmental mistake was made.

6. **ACCEPTANCE OF OFFER:** The submitted Bid is considered an offer on the part of the Bidder; such offer is deemed accepted upon issuance by the City of a Purchase Order, Notice of Award, Contract or other contractual or otherwise binding document.

Bidders accept all terms and conditions herein upon submission of their signed Bid.

7. **FIRM PRICES:** By submitting the Bid, Bidder signifies that the prices, terms and conditions quoted in their Bid will be firm for acceptance for a period of not less than the bid guarantee Bid stated herein unless otherwise specified in the solicitation. Prices quoted must remain firm for the period of performance of any resulting purchase order or contract to be performed over a specified period of time as indicated in the solicitation.

UNIT PRICES: Unit prices and all other pricing shall be rounded to the nearest cent. In the event of discrepancy between the unit price and the extended price, the unit price shall govern. At no point shall a correction of a mistake result in reduction or increase of a Bidder's unit price(s). If correction of the mistake would result in either an increase or decrease in the unit price, the Bid shall be considered nonresponsive and shall be rejected.



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PURCHASING DEPARTMENT
ADMINISTRATIVE SERVICES BUILDING
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(479)-271-3115 – purchasing@bentonvillear.com

8. **CONTRACT RENEWAL:** The City reserves the right to renew any contract resulting from this solicitation at the same prices, specifications, terms and conditions, upon mutual agreement between the City and the contractor.
9. **ESTIMATED QUANTITIES:** Whenever a Bid requests prices to be firm for a period of performance, the quantities or usages shown are estimated only with no guarantee made by the City. The quantities are for the Bidder's information only, and the City will be bound only for actual quantities ordered.
10. **DISCOUNTS:** Cash discounts will be considered in determining the award. Unless otherwise indicated in the IFB, discounts offering 10 days or more will be taken by the City's Accounts Payable Division, with payment made on the nearest pay period after receipt, inspection and acceptance of articles, and receipt of correct invoice(s).
11. **SAMPLES:** Samples of items, when required, must be submitted within the time specified at no expense to the City. If not destroyed by testing, samples may be returned at the Bidder's expense unless otherwise indicated in the solicitation.
12. **AWARD:** Award will be made to the lowest most responsive and responsible Bidder, which will be judged on the basis of price, conformance to specifications, quality, delivery time, references, past performance, payment terms, and in the best interest of the City of Bentonville, all factors being considered.

The City reserves the right to accept or reject any or all Bids or part of Bids, to waive irregularities and technicalities, and to request rebids on the material described in the solicitation for any reason.

The Purchasing Manager has the authority to cancel award of a solicitation if, in their discretion and the City Department's (over the project) discretion, Bids received do not meet the City's needs or for any other reason where award would not be in the City's best interest.

The City reserves the right to award the contract on a split-order basis, lump-sum or individual-item basis, or any other combination that is in the best interest of the City unless otherwise specified herein.

Conditional Bids are not acceptable and are subject to rejection in whole or in part at the sole discretion of the City.

In the event of two (2) or more identical low Bids, award will be made to the lowest and most responsive and responsive Bidder as determined by the City through the Bid evaluation process.

No order or contract resulting from this solicitation may be assigned, transferred, or delegated to another party without the written approval of the Purchasing Manager and Finance Director.

13. **BRAND NAMES:** If brand names, make, name of any manufacturer, trade name, or vendor catalog number are specified in these Bid documents, it is for the purpose of establishing a grade or quality of material only. When the City does not wish to rule out other brands or makes, the phrase OR EQUAL (OR EQUIVALENT, OR ALTERNATE) is added. However, if a product other than that specified is Bid, it is the Bidder's responsibility to identify such product in their Bid and prove to the City that the product is equal to or better than the product specified. Unless otherwise indicated, evidence in the form of samples may be requested if the proposed brand is other than that specified by the City. Such samples are to be furnished as specified in the solicitation or upon request of the City. Any samples requested by the City must be received by the City no later than four (4) days after formal request is made. The decision to accept a proposed item is solely the City's.



CITY OF BENTONVILLE, ARKANSAS
PURCHASING DEPARTMENT
ADMINISTRATIVE SERVICES BUILDING
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(479)-271-3115 – purchasing@bentonvillear.com

14. **VARIATIONS OF SPECIFICATIONS:** For purposes of evaluation, Bidder must indicate any variances from any provision, specification, or condition stated in this solicitation, no matter how slight. If Bidder does not indicate any variations, it will be assumed that the product or service fully complies with the provisions, specifications, or conditions as stated. If the City determines that variances exist in the specification which the Bidder did not indicate (or falsely represented a lack of variances), the City reserves the right to declare the Bid non-responsive and reject the Bid from that Bidder. If satisfactory Bids are not received for the City's specifications, the City reserves the right to consider alternate Bids containing deviations from stated specifications.
15. **QUALITY:** Unless otherwise identified in the solicitation, all materials used in the manufacture or construction of supplies, materials or equipment covered by this solicitation shall be new. The items Bid must be the latest make or model in current production, as offered to commercial trade, and of the highest quality material and workmanship. Used, shopworn, demonstrator, prototype, or discontinued models are not acceptable.
16. **ECO-FRIENDLY (GREEN) PRODUCTS:** The City of Bentonville supports the use of products that are ecologically friendly to the environment. Bidders are urged to include information with their Bid that describes the human health and environmental impact of products proposed. This eco-friendly approach takes into account, but is not limited to, waste production, energy and water use, greenhouse gas emissions, indoor air quality, recycled and reused content and packaging, and the presences of hazardous substances. Consideration may be given to these eco-friendly products when compared to mainstream products in cost and packaging.
17. **MATERIAL SAFETY DATA SHEET (MSDS):** It is mandatory for a manufacturer, supplier, or distributor of hazardous material to supply an MSDS as required by 29CFR 1910.1200 with the first shipment. Any time the content of an MSDS is revised, the vendor is required to provide a new MSDS to the City.
18. **ACCEPTANCE OF MATERIAL:** The material delivered under this Bid shall remain the property of the seller until a physical inspection and actual usage of this material and/or service is made and is accepted by the City. It must comply with the terms of this IFB, and fully comply with specifications, and be of the highest quality. In the event the material and/or services supplied to the City is found to be defective or does not conform to specifications, the City reserves the right to cancel the order upon written notice to the contractor and return product to contractor at the contractor's expense. In the event that the City does not cancel the order but requests Bidder to bring the item(s), material(s) or service(s) to specification (correct the items), the corrections must be made at the awarded Bidder's expense and responsibility and must be completed within a timely manner as indicated by the City. If Bidder attempts to correct the item, material or service but fails to do so, or fails to do so in a timely manner, the City may elect to cancel the order at the awarded Bidder's expense.
19. **CODES AND REGULATIONS:** All products supplied and work performed within the scope of this request shall be supplied by the successful Bidder to all applicable current prevailing City, State and Federal codes and regulations.
20. **DELIVERY:** Bidders must complete the Delivery Section of this IFB. Delivery time may be considered in making an award. The City reserves the right to cancel any order, or any part of that order, without obligation if delivery is not made within the time(s) specified on in this IFB.

The City may grant additional time for delivery if the City is satisfied the delay is beyond the control of the awarded Bidder. Any request for time extension must be in writing and approved by the City's authorized representative.

All deliveries shall be FOB Destination to the location listed on the purchase order, contract, other approved form or as specified in this IFB unless otherwise specified by the City. Bidders may be requested to provide separate pricing for delivery of all items in this solicitation.



CITY OF BENTONVILLE, ARKANSAS
PURCHASING DEPARTMENT
ADMINISTRATIVE SERVICES BUILDING
1000 SW 14TH STREET BENTONVILLE, AR 72712
(479)-271-3115 – purchasing@bentonvillear.com

21. **THIRD PARTY FREIGHT SERVICE:** The City of Bentonville may, at its discretion, use a third party freight service to arrange for delivery of the goods ordered as a result of this solicitation. In this case, the freight terms will be FOB Destination/Third Party Prepaid.
22. **PRICE CHANGES ON CONTRACTS:** If this solicitation is for an estimated quantity of supplies, consideration in awarding Bid for yearly contracts will be given:
- First to Bidder offering firm prices for full contract period; and
 - Second to Bidder offering firm prices subject to market price adjustment.
23. **COPYRIGHT OR PATENT RIGHTS:** By submitting the Bid, Bidder signifies that there has been no violation of copyrights or patent rights in manufacturing, producing or selling the goods shipped or ordered as a result of the Bid, and Bidder agrees to hold the City harmless from any and all liability, loss, or expense caused by any such violation.
24. **CONFLICT OF INTEREST:** The contractor, by signing the Bid form in the solicitation or by acceptance of any purchase order resulting from this solicitation, certifies that to the best of their knowledge or belief, no elected or appointed official of the City is financially interested, directly or indirectly, in the purchase of the goods or services specified on this order or in the contract.
25. **TAXES:** The City of Bentonville is not tax exempt from any taxes imposed by the State and/or Federal Government. Applicable taxes should be included on all bids.

The City of Bentonville sales tax rate is 9.5%; all products shall be delivered to the City of Bentonville or work shall be performed within City limits.

It is the responsibility of the Bidder to include sales tax in their Bid when applicable regardless of the Bidder's ability to remit sales tax to the State of Arkansas. In no event should applicable taxes cause the City to pay more than the submitted Bid price.

26. **MANUFACTURER'S CERTIFICATION:** The City reserves the right to request from Bidders a separate manufacturer certification of all statements made in the Bid. Failure to provide any requested certification may result in rejection of Bid or termination of contract for which the Bidder must bear full liability.
27. **TERMINATION:** Subject to the following provisions, any contract resulting from this solicitation may be terminated by either party upon thirty (30) days advance written notice to the other party; but if any work or service is in progress but not completed as of the date of termination, then said contract may be extended upon written approval of the City until said work or services are completed and accepted. Types of termination include, but are not limited to:
1. Termination for Convenience
In the event that the contract is terminated or cancelled upon request and for the convenience of the City, without the required thirty (30) days advance written notice, then the City shall negotiate reasonable termination costs, if applicable.
 2. Termination for Cause
Termination by the City for cause, default or negligence on the part of the contractor shall be excluded from the foregoing provision; termination costs, if any, shall not apply. The thirty (30) days advance notice requirement is waived in the event of termination for cause.



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ADMINISTRATIVE SERVICES BUILDING
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3. **Termination Due to Unavailability of Funds**

When funds are not appropriated or otherwise made available to support continuation of performance, the contract shall be cancelled at the discretion of the City and without penalty to the City.

28. **W-9 REQUIREMENT:** The City of Bentonville requires a Form W-9 (Request for Taxpayer Identification Number and Certification), updated annually, from all contractors that do business with the City of Bentonville. The Form W-9 verifies the Tax Identification Number of the contractor so the City can correctly report to the IRS all funds paid to the contractor.
29. **DEFAULT OF CONTRACT:** In case of default by the contractor, the City may procure the items or services from other sources and hold the contractor responsible for any excess costs caused by such procurement. Failure of a Bidder to furnish the equipment, supplies, material, and/or services as specified is cause for elimination of the Bidder from the active Bidder's list for the products or services concerned.
30. **BID BOND:** If required in this solicitation, Bidders shall include a Bid guarantee in the form of a Bid bond, certified check, cashier's check in the amount of five percent (5%) of the base Bid, payable without condition to the City of Bentonville. Personal or company checks are not acceptable. The Bid bond shall be accompanied by a power of attorney showing the authority of the person executing the bond on behalf of the surety company and shall adhere to any other requirements regarding Bid Bonds as set forth in this IFB document. Failure to include a Bid bond or Bid guarantee with your Bid submission when required will result in automatic rejection of the Bid. Bid guarantees (submitted by certified or cashier's checks) will be returned to unsuccessful Bidders when the successful Bidder is determined and the contract is executed.
31. **PERFORMANCE & PAYMENT BOND:** At the discretion of the City, a performance bond may be required under the contract resulting from this solicitation. Such bond must be of a type and amount suitable for the nature of the commodity or services purchased and for the full dollar amount of the contract as indicated in this solicitation. The performance bond shall be for the duration of the contract, guaranteeing the faithful performance of the contract and payment of all of Contractor's subcontractors and/or vendors, and otherwise conditioned as required by law. The Performance and Payment Bonds shall be accompanied by a power of attorney showing the authority of the person executing the bond on behalf of the surety company and shall conform to all other requirements for these bonds as specified in this IFB document. Bond forms must be executed with a surety company licensed to do business in the State of Arkansas. The cost of the bond shall be included in the Bidder's offer; at no time will the City be liable for the costs associated with a Performance and/or Payment Bond.
32. **MODIFICATIONS FOR CHANGES:** No agreement or understanding to modify this solicitation and resultant purchase orders or contract shall be binding upon the City unless made in writing by the Purchasing Department of the City of Bentonville.
33. **ORDER OF PRECEDENCE:** In the event of an inconsistency between provisions of the solicitation, the inconsistency will be resolved in the following order: (a) the IFB document; (b) Additional Terms and Conditions and Instructions to Bidders; (c) special provisions; (d) other provisions of the contract, whether incorporated by reference or otherwise; and, (e) the specifications.
34. **WARRANTY:** Supplies or services furnished as a result of this solicitation shall be covered by the most favorable commercial warranties, expressed or implied, that the Bidder and/or manufacturer gives to any customer. The rights and remedies provided herein are in addition to and do not limit any rights afforded to the City by any other clause of this Bid. The City reserves the right to request from Bidders a separate manufacturer certification of all statements made in the Bid.



CITY OF BENTONVILLE, ARKANSAS
PURCHASING DEPARTMENT
ADMINISTRATIVE SERVICES BUILDING
1000 SW 14TH STREET BENTONVILLE, AR 72712
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35. **PAYMENT:** Payment for materials or services received under this contract will be made upon completion of delivery for each purchase order and submission of invoice to the Accounts Payable Department, 1000 SW 14th Street, Bentonville, AR 72712. Normal payment terms are payment via check within fourteen days from receipt of invoice.
36. **GOVERNING LAW:** Any agreement resulting from this solicitation shall be interpreted under and governed by the laws of the State of Arkansas.
37. **ESCALATION/DE-ESCALATION CLAUSE:** In the event prevailing market conditions warrant an adjustment in contract pricing, the following escalation/de-escalation clause shall be the only clause acceptable to the City:
1. Contractor shall give written notice to the Purchasing Department of any proposed changes from contract prices not less than fifteen (15) calendar days prior to the effective date of price changes.
 2. Such notice must be accompanied by a copy of the supplier's notification to the contractor of a justifiable price change.
 3. No price escalation will be authorized in excess of the amount of the increase indicated on the supplier's notice.
 4. The approved price change shall be honored for all orders received by the contractor after the effective date of such price change.
 5. Approved price changes are not applicable to orders already issued and in process at time of price change.
 6. The City reserves the right to audit and/or examine any pertinent books, documents, papers, records, or invoice relating directly to the price increase after reasonable notice and during normal business hours.
 7. The Purchasing Department retains the right to determine whether or not such proposed price changes are in the best interests of the City.
 8. If in the opinion of the Procurement Department any proposed increase is found unacceptable, the Purchasing Department reserves the right to cancel the contract upon fifteen (15) calendar days' written notice.
 9. Contractors must tie any price change clause to an industry-wide or otherwise nationally recognized index or some other form of verifiable document. Contractor will put the Procurement Department on the mailing lists for such publications so the Purchasing Department can monitor said changes. Such membership will be at no cost to the City.
 10. If parties to the contract cannot agree on renewal terms, it is understood that the contract will be cancelled and a new contract will be solicited.
38. **ADDITIONAL INFORMATION:** Additional information may be obtained from the Purchasing Department at (479) 271-3115.



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PURCHASING DEPARTMENT
ADMINISTRATIVE SERVICES BUILDING
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APPENDIX A
VENDOR DISCLOSURE
(REQUIRED RESPONSE DOCUMENT)



CITY OF BENTONVILLE, ARKANSAS
PURCHASING DEPARTMENT
ADMINISTRATIVE SERVICES BUILDING
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(479)-271-3115 – purchasing@bentonvillear.com

Contractor/Vendor Disclosure

THIS DOCUMENT MUST BE COMPLETED AND INCLUDED IN ANY SUBMISSION

Company Name: Scott Equipment

Identify each employee of the City Of Bentonville to whom you, any of your Employees owning more than 5% interest in your Company, or are a Director/Executive/Decision Maker of your Company are immediately related.

Immediate Relation includes:

- Spouse/Domestic Partner
- Parents-Natural or Legal/Step/In Laws
- Children/Step, Siblings-Whole/Half/Step/ In Laws
- Grandchildren/Step, Great Grandchildren.

OR

☒ Check this box if there are no applicable relationships to disclose.

Failure to disclose shall be considered a material breach and grounds for immediate termination of this contract/agreement. **Note: Any change in circumstances resulting in a conflict or appearance of a conflict shall be reported within 30 days of change of circumstance.**

LM Initials



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PURCHASING DEPARTMENT
ADMINISTRATIVE SERVICES BUILDING
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APPENDIX B
SPECIFICATIONS
(REQUIRED RESPONSE DOCUMENT)



APPENDIX B: SPECIFICATIONS

BIDDERS: THIS SECTION CONTAINS REQUIRED RESPONSE FIELDS

- **AS SPECIFIED:** Bidder must indicate, “AS SPECIFIED”, by placing an “X” in the designated space (‘As Specified’) provided.
- **EQUIVALENT:** Bidders must indicate (and describe) any item being offered to the City that does not fully conform to the City’s specification but is being offered to the city as being an “EQUIVALENT” (including alternate or substitute) to the City’s specifications. It is the responsibility of Bidders to demonstrate and provide clear evidence of the item’s equivalency to the City’s specification. The City shall have the final determination as to whether an item is equivalent and meets the City’s needs.

The specifications in this Section do not necessarily include all specifications and/or requirements for this IFB. Bidder is responsible for the complete review of this IFB document and all appendixes, any issued clarifications, addenda, or any other document released by the City related to this IFB and for familiarizing themselves with the work to be performed and/or products to be supplied prior to submitting a bid to ensure accurate pricing.

lb(s) – pound(s) lbf – pound-force GPM – gallons per minute L/min – liters per minute mph – miles per hour
km/hr – kilometers per hours PSI – pounds per square inch kPA - kilopascal

1. GENERAL SPECIFICATIONS			
SPECIFICATION LINE NUMBER	SPECIFICATION DESCRIPTION	BIDDER INDICATE IN THIS COLUMN IF ‘AS SPECIFIED’	BIDDER INDICATE IN THIS COLUMN IF ‘EQUIVALENT’
1	Bidder has examined this entire Bid Packet, including all attached appendices and agrees to perform the work and provide the materials as specified.	X	
2	The awarded Bidder shall follow all federal, state and local safety regulations and laws.	X	
3	Bidder is an authorized seller of the Unit proposed in Bidder’s Bid.	X	
4	Bidder understands that Bidder’s TOTAL BID PRICE is inclusive of ALL costs to the City, including SALES TAX. THE CITY OF BENTONVILLE IS NOT TAX EXEMPT AND PAYS SALES TAX ON HEAVY EQUIPMENT (equipment not registered to travel on the road).	X	
5	The awarded Bidder shall be responsible for furnishing all materials and labor required to deliver the product(s) as specified to the City.	X	
2. GENERAL UNIT SPECIFICATIONS			
6	One (1) 2022 or current model Compact Long Arm Excavator, as specified	X	
7	Engine: • Minimum 49 horse power (Society of Automotive Engineers net) • Glow plugs • 120 volt Block heater		48 hp



SPECIFICATION LINE NUMBER	SPECIFICATION DESCRIPTION	BIDDER INDICATE IN THIS COLUMN IF 'AS SPECIFIED'	BIDDER INDICATE IN THIS COLUMN IF 'EQUIVALENT'
8	Electrical: 12 Volt - Engine Block Heater	X	
9	Operating weight (including cab): 12,565 lbs		12,575
10	Cab: - AM/FM Radio with Bluetooth - Cloth seat - Heat - Air Conditioning		X
11	Performance: - Minimum Arm Digging Force: 5,962 lbf - Minimum Lift capacity at ground level with blade down: 6,534 lbs		6289 lbs
12	Working Range: - Maximum Reach at ground level: 247.2 inches - Maximum dump height: 166.5 inches - Dozer Blade with bolt on cutting edge and float 25 degrees left and 25 degrees right hydraulic angle blade - Tail swing over hang shall be no more than 0.5 inches - There shall be no protrusion from swing cylinder casting during boom swing left. - Boom swing left shall be no less than 75 degrees - Boom swing right shall be no less than 50 degrees		246 in. 164 in. 3" 75" 55°
13	Drive System: - Each track shall be independently driven by a hydraulic motor. - Travel Speeds shall be no less than: - Low: 1.8 mph (2.8 km/hr) - High: 2.8 mph (4.5 km/hr)		2.6 4.5
14	Undercarriage: - Track Rollers shall be sealed. - Track Adjusters shall be grease-type with shock absorbing recoil springs. - Rubber tracks shall be standard equipment. - Excavator shall have multiple tie down points available along the track roller frame. - Rubber track ground pressure shall not exceed 4.39 psi (30.3 kPa).		4.75



SPECIFICATION LINE NUMBER	SPECIFICATION DESCRIPTION	BIDDER INDICATE IN THIS COLUMN IF 'AS SPECIFIED'	BIDDER INDICATE IN THIS COLUMN IF 'EQUIVALENT'
15	Controls: - Excavator direction, steering, and travel speed shall be controlled by two hand or foot levers. - Thumb buttons control auxiliary hydraulics and boom swing. - Blade control shall be a separate lever with float function. - Excavator slew, bucket, boom and arm functions shall be controlled by two joysticks. - Excavator Functions shall be selectable between ISO and Standard controls.	X	
16	Hydraulic System: - Total hydraulic pump capacity shall be capable of providing no less than 36.6 GPM (138.5 L/min) - Primary auxiliary circuit shall be capable of providing no less than 20.0 GPM (75.7 L/min) for attachment operation. - Second auxiliary circuit shall be capable of providing no less than 12.0 GPM (45.4 L/min) for attachment operation - Variable flow auxiliary hydraulics shall be standard equipment. - Shall include flush-face quick couplers. - Boom and Arm cylinders shall have end of stroke cushioning. - Auxiliary quick couplers shall be flush faced couplers and mounted on the arm.		37.8 Flush Faced Couplers
17	Attachments: - All attachments must be mounted on a quick-change mechanism. - Quick-change mechanism will maintain original bucket to arm geometry. - Quick-change shall not diminish published bucket or arm digging forces. - Hydraulic Thumb. Hydraulics must be fingertip controlled at the joystick.		Quick Coupler will reduce Arm Force
18	Buckets: 18 inch Trenching bucket with teeth 36 inch Smooth Edge Hydraulic Tilting bucket for ditch reclaiming. Hydraulics must be fingertip controlled at the joystick.		51" Smooth Lip Bucket



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SPECIFICATION LINE NUMBER	SPECIFICATION DESCRIPTION	BIDDER INDICATE IN THIS COLUMN IF 'AS SPECIFIED'	BIDDER INDICATE IN THIS COLUMN IF 'EQUIVALENT'
19	Current City Owned Attachments Required to be compatible with Proposed Unit: • Bobcat HB980 Hydraulic Breaker with Nail Point. Hydraulics must be switch controlled at the joystick. • Bobcat Part #7225485: 40 inch Flail Mower. (Port Relief Required) Hydraulics must be switch controlled at the joystick.	X	

20. WARRANTIES (REQUIRED RESPONSE)

Bidder shall indicate warranties available for the Unit(s) and Items within the specified Unit(s) below.

Product Warranties:

Bidder shall furnish any and all product warranties available to the City.

☒ Agree (As Specified) ☐ Disagree (required to include reasoning below, "no applicable warranties" is an acceptable response)

Reasoning: _____

Warranties Provided:
12 month unlimited hours

Volvo Construction Equipment
Building Tomorrow



ECR58

Volvo Compact Excavators, ECR58F 5.8 t/12,875 lb 48 hp





WELCOME TO OUR WORLD

Welcome to a world of industry leading machinery. A world where imagination, hard work and technological innovation will lead the way towards developing a future which is cleaner, smarter, and more connected. A world supported by the enduring values of the Volvo Group. A world of stability, sustainability and innovation. A world which we put our customers at the heart of.

Small machines, big results

With decades of experience in the design and manufacture of compact excavators and wheel loaders, our range of compact machinery is designed with customer success in mind. Built from the same DNA as large Volvo machinery, our compact range sets the standard for efficiency performance and uptime – complemented by an extensive range of Volvo attachments for maximum versatility.

Building on our proud history, the Volvo Concept Lab continues to create cutting-edge ideas and innovative concepts – such as our award-winning electric compact excavator – to ensure we offer our customers machines which deliver big results long into the future.



Solutions for you

Our industry leading machines are just the start of your relationship with Volvo. As your partner, we have developed an extensive range of additional solutions to help you improve uptime, boost productivity and reduce costs.

Designed for your business

Structured across nine blocks, our portfolio of products and services are designed to complement your machine's performance and boost your profitability. Simply put, we offer some of the best guarantees, warranties and technological solutions in the industry today.

There when you need us

Whether you're buying new or used, our global network of dealers and technicians offer around-the-clock support, including machine monitoring and world-class parts availability. It's the basis of everything offered by Volvo Services, so you can be confident we've got you covered right from the start.

BUILDING TOMORROW

The operator's choice

The 6-ton F-generation ECR58 has been expertly designed with the operator in mind. With unrivalled comfort, operators can work more efficiently and with less fatigue. The compact excavator is complemented by a range of Volvo services to support you throughout the lifetime of the machine, including machine monitoring, uptime services and dealer support.

Precision controls

Whether for fast bulk digging or precise levelling, the ECR58's new hydraulic system provides superb combined operations. Operate hydraulic attachments with precision thanks to the proportional fingertip controls. The automotive style jogwheel and 5" color display enable intuitive navigation through the menus for further fine tuning, allowing the ECR58 to be adapted to any job requirement.



Profit boosting technology

A number of intelligent features combine to deliver outstanding fuel efficiency, including the advanced hydraulic system with load sensing and flow sharing. ECO mode further reduces fuel consumption by up to 10% and auto idle eliminates unnecessary fuel consumption. With auto engine shutdown, hours which are not worked are not recorded, reducing maintenance costs while contributing to a higher resale value.



Machine monitoring made easy

With CareTrack, the Volvo telematics system, you can remotely monitor the status of your machine, including engine, fuel efficiency, important safety information and machine health. Spread service costs and keep your machine in top condition with a repair and maintenance agreement.



Here to support you

Volvo is here to support you with a range of services including financial services and readily available Genuine Volvo Parts – the best choice for your Volvo machine. Speak to your local dealer to find out more about the range of services they can offer to help your business succeed.





THE INDUSTRY'S BEST CAB

Step inside the most spacious cab in the industry. Designed to offer the highest levels of operator convenience, the Volvo cab features efficient soundproofing, updated ergonomic controls, numerous storage areas and 12V and USB ports. The multi-adjustable seat and console, both mounted on the same suspension, provide excellent shock and vibration absorption. A fully opening front window and slide side window further add to comfort and visibility.



TOP OF THE CLASS

Superior stability, breakout force, tear out force and lifting capacity make the F-generation ECR58 a top performer in its class. Experience fast cycle times, even when taking on tough applications and heavy loads. High system pressure delivers impressive tractive force when climbing gradients or traveling over rough terrain.

Multi-tasking made easy

Unlock the full potential of your short swing radius excavator and take on a variety of applications with Volvo's comprehensive range of matched attachments. Increase your versatility and experience new levels of productivity across a wide range of tasks.

Take on more

Quickly switch between attachments and take on a variety of tasks in the F-generation ECR58, thanks to preset adjustments in the new 5" display. Hydraulic flow settings are easily customizable, ensuring optimum performance for the attachment you are working with.



Tiltrotator

Steelwrist® Tiltrotators combine flexibility and precision with a compact size and low weight. For total convenience, settings are easily adjusted from the display and the tiltrotator is controlled from the machine joysticks with three rollers. Fully supported by Volvo parts and warranty, the tiltrotator control system is delivered from Volvo factories.



Tilt Quick Coupler

The ultimate in coupling flexibility with a tilting angle of up to 2 x 90°. The Tilt Quick Coupler connects to dedicated auxiliary lines and enables quick and easy switching between attachments. The compact design of the quick coupler, including minimal height and length, helps to achieve an outstanding digging performance.



Hydraulic Thumb

The hydraulic thumb from Volvo is designed to work with both Volvo direct fit buckets and quick coupler. It can be used to work with various materials across a range of tasks, including piling, placing, loading, lifting and carrying.



Comfort and performance

THE INDUSTRY'S BEST CAB

- Most spacious cab in the industry **NEW**
- Seat and consoles suspended together **A VOLVO EXCLUSIVE**
- Large travel pedals, storage boxes, 12V and USB ports **NEW**
- Best-in-class all-around visibility
- Quiet in-cab environment

Precision controls

- Intuitive jogwheel and 5" color display **NEW**
- Proportional fingertip controls
- Smooth combined movements



Volvo Services

- CareTrack: machine monitoring made easy
- Maintenance and repair agreements
- Genuine Volvo Parts
- Financial Services



Take on more

- Compact design: easy to transport and access tight spaces
- Factory-installed auxiliary hydraulics
- Customizable hydraulic flow settings
- Tilt Quick Coupler **NEW**
- Steelwrist® Tiltrotator and factory-fit control system
- Range of Volvo Attachments

TOP OF THE CLASS

- True 6t class performance
- Low center of gravity for excellent stability **NEW**
- Superior breakout/tear out forces and lifting capacities **NEW**
- High system pressure delivers impressive tractive force
- Short swing radius

Outstanding fuel efficiency

- Advanced hydraulic system with load sensing and flow sharing **NEW**
- Eco Mode **NEW**
- Auto-engine shutdown **NEW**
- Engine auto-idle

ECR58F in detail

Engine

Engine		D2.6H
Max. power at	r/min (r/s)	2 200 (36.6)
Gross	kW (hp)	35.5 (48)
According to ISO 3046-1 and SAE J1995		
Max. torque	Nm (ft lbf)	174 (128)
at engine speed	r/min	1 500
No. of cylinders		4
Displacement	cm ³ (in ³)	2,615 (160)
Bore	mm (in)	87 (3.43)
Stroke	mm (in)	110 (4.33)
Compression ratio		18:1

Electrical system

Voltage	V	12
Battery	V	1 X 12
Battery capacity	Ah	74
Alternator	V/Ah	12 / 70

Swing system

Max. slew speed	r/min	8.7
Max. slew torque	daNm (ft lbf)	1,229 (9,065)

Undercarriage

Rubber track width	mm (in)	400 (15.7)
Steel track width	mm (in)	380 (15)
Bottom/top rollers per side		5 / 1
Track tension	by grease piston	
Blade (width x height)	mm (in)	2 000 x 361 (78.7 x 14.2)

Digging Performances

Standard bucket width (blade, W/O side cutter)	mm (in)	600 (23.6)
Standard bucket mass	kg (lb)	113 (249)
Standard bucket rated capacity	l (ft ³)	144 (5.08)
Bucket rotation	°	201
Bucket breakout force (ISO)	daN (lbf)	4,191 (9,422)
Short arm tearout force (ISO)	daN (lbf)	2,841 (6,387)
With short arm	mm (ft in)	1,650 (5'5")
Long arm tearout force (ISO)	daN (lbf)	2,518 (5,661)
With long arm	mm (ft in)	1,950 (6'5")

Weight and Ground Pressure

Operating weight according to ISO 6016	kg (lb)	5,840 (12,875)
Ground pressure (cab)	kPa (psi)	32.8 (4.75)
Transport weight	kg (lb)	5,765 (12,710)
With heated cab		
With direct-fit bucket		
With rubber tracks	mm (in)	400 (15.7)
With fuel tank capacity	%	100
With steel tracks	+kg (+lb)	120 (265)
Steel tracks	mm (in)	380 (15)
With rubber pads	+kg (+lb)	160 (353)
Rubber pads	mm (in)	400 (15.7)

The forementioned operating weight is given for a ECR58F equipped with long arm (1950 mm, +40kg), and additional counterweigh (170 kg)

Hydraulic system

Pump type		Variable displacement, load-sensing piston pump.
Maximum system flow	l/min (gal/min)	143 (37.8)
Maximum operating pressure (main pump)	MPa (psi)	26 (3,771)
Breaker & shear X1 maximum flow	l/min (gal/min)	75 (19.8)
Breaker & shear X1 maximum pressure	MPa (psi)	22 (3,191)
Slope & rotator X3 maximum flow	l/min (gal/min)	40 (10.6)
Slope & rotator X3 maximum pressure	MPa (psi)	22 (3,191)

Travel System

Max. drawbar pull	daN (lbf)	4,748 (10,674)
Max. travel speed low	km/h (mi/h)	2.6 (1.6)
Max. travel speed high	km/h (mi/h)	4.5 (2.8)
Gradeability	°	20

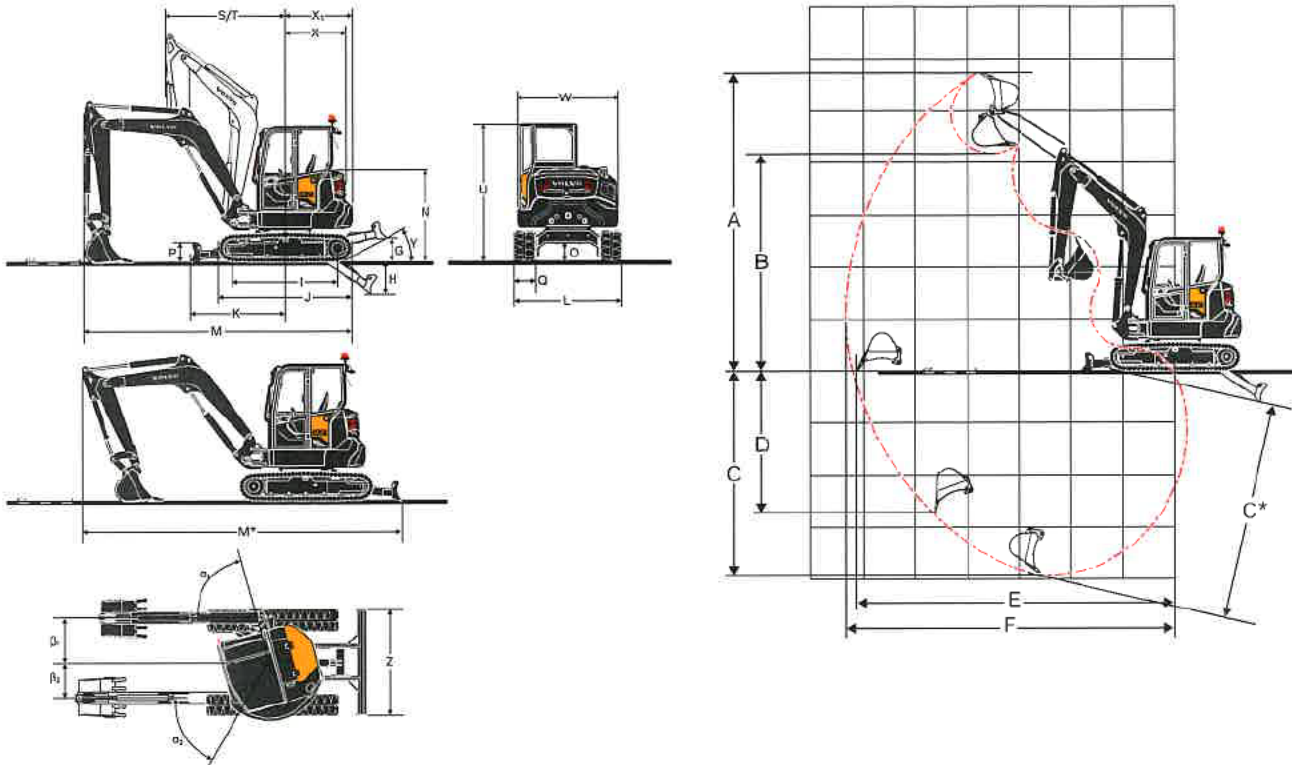
Service Refill

Fuel tank	l (gal)	70 (18.5)
Hydraulic system, total	l (gal)	76 (20)
Hydraulic tank	l (gal)	47 (12.4)
Engine oil	l (gal)	10.2 (2.69)
Engine coolant	l (gal)	9 (2.38)
Travel reduction unit	l (gal)	2 X 0.8 (2 x 0.211)

Sound Level

Interior sound level according to ISO 6396		
L _{PA}	dB	74
External sound level according to ISO 6395 and EU Noise Directive (2000/14/EC) and 474-1:2006 +A1:200		
L _{WA}	dB	97

Specifications



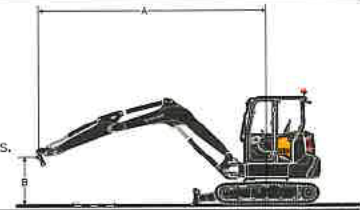
DIMENSIONS								
Description			Unit		ECR58F			
Arm			mm	ft in	1,650	5'5"	1,950	6'5"
A	Maximum cutting height		mm	ft in	5,565	18'3"	5,740	18'10"
B	Maximum dump height		mm	ft in	3,996	13'1"	4,171	13'8"
C	Digging depth		mm	ft in	3,616	11'10"	3,916	12'10"
C*	Maximum digging depth		mm	ft in	3957	13'0"	4,249	13'11"
D	Maximum vertical wall digging depth		mm	ft in	2,431	7'12"	2,710	8'11"
E	Maximum digging reach at ground level		mm	ft in	5,972	19'7"	6,261	20'6"
F	Maximum digging reach		mm	ft in	6,109	20'1"	6,391	21'0"
G	Highest position dozer blade		mm	ft in	441	1'5"	441	1'5"
H	Lowest position dozer blade		mm	ft in	610	2'0"	610	2'0"
I	Tumbler length		mm	ft in	2,000	6'7"	2,000	6'7"
J	Track length		mm	ft in	2,521	8'3"	2,521	8'3"
K	Dozer blade, maximum reach at ground level		mm	ft in	1,860	6'1"	1,860	6'1"
L	Overall width with 400mm (15.7 in) rubber tracks		mm	ft in	2000	6'7"	2000	6'7"
M	Overall length		mm	ft in	5,193	17'0"	5,044	16'7"
M*	Transport length		mm	ft in	6,105	20'0"	6,030	19'9"
N	Overall height of engine hood		mm	ft in	1,700	5'7"	1,700	5'7"
O	Minimum ground clearance		mm	ft in	359	1'2"	359	1'2"
P	Dozer blade height		mm	ft in	361	1'2"	361	1'2"
Q	Shoe width (rubber)		mm	ft in	400	1'4"	400	1'4"
R	Ground clearance to superstructure		mm	ft in	645	2'1"	645	2'1"
S	Front slew radius		mm	ft in	2,466	8'1"	2,515	8'3"
T	Front slew radius with maximum offset		mm	ft in	1,992	6'6"	2,035	6'8"
U	Overall height		mm	ft in	2,540	8'4"	2,540	8'4"
W	Overall width of superstructure		mm	ft in	1,833	6'0"	1,833	6'0"
X	Tail slew radius		mm	ft in	1,100	3'7"	1,180	3'10"
X ¹	Additional counterweight overhang		mm	ft in	80	0'3"	incl.	
Y	Angle of approach		°		31			
Z	Dozer blade width		mm	ft in	2,000	6'7"	2,000	6'7"
α ₁	Maximum boom swing angle to the left		°		75			
β ₁	Maximum boom offset to the right		mm	ft in	849	2'9"	849	2'9"
α ₂	Maximum boom swing angle to the right		°		55			
β ₂	Maximum boom offset to the left		mm	ft in	654	2'2"	654	2'2"

¹: Option

Specifications

LIFTING CAPACITY ECR58F

These capacities are given for a machine equipped with a cabin, 400mm rubber tracks and without a bucket or quick-coupler.
The below values are in compliance with ISO standard 10567. They do not exceed 75% of the tipping load or 87% of the hydraulic limit with the machine on firm level ground.
Loads marked with an asterisk (*) are limited by machine's hydraulic lifting capacity rather than tipping load.
Caution: In accordance with standard EN 474-5, the machine must be equipped to carry out handling operations. It is the operator's obligation to know and follow the applicable national and local safety regulations.



	Lifting point height (B) m (ft)		Lifting point radius (A)										
			2.0 m (6.6 ft)		3.0 m (9.8 ft)		4.0 m (13.1 ft)		5.0 m (16.4 ft)		Max. reach		Max.
			Along UC	Across UC	Along UC	Across UC	Along UC	Across UC	Along UC	Across UC	Along UC	Across UC	m (ft in)
Arm: 1 650mm (5'5") + Dozer blade up	3 (9.8)	kg (lb)					1,314* (2,897*)	1,064 (2,346)					
	2 (6.6)	kg (lb)			2,029* (4,473*)	1,575 (3,472)	1,312 (2,892)	1,022 (2,253)	926 (2,041)	727 (1,603)	862 (1,900)	676 (1,490)	5.23 (17'2")
	1 (3.3)	kg (lb)			1,946 (4,290)	1,454 (3,206)	1,258 (2,773)	972 (2,143)	904 (1,993)	706 (1,556)	828 (1,825)	648 (1,429)	5.3 (17'5")
	0 (0)	kg (lb)			1,881 (4,147)	1,396 (3,078)	1,220 (2,690)	936 (2,064)	888 (1,958)	691 (1,523)	855 (1,885)	666 (1,468)	5.14 (16'10")
	-1 (-3.3)	kg (lb)	2,686* (5,922*)	2,686* (5,922*)	1,872 (4,127)	1,388 (3,060)	1,209 (2,665)	926 (2,041)					
	-2 (-6.6)	kg (lb)	3,289 (7,251)	2,748 (6,058)	1,902 (4,193)	1,415 (3,120)							
Arm: 1 950mm (6'5") + 170kg (375 lb) Additional counterweight + Dozer blade up	3 (9.8)	kg (lb)					1,162* (2,562*)	1,053 (2,321)	1,005 (2,216)	729 (1,607)	936 (2,064)	678 (1,495)	5.21 (17'1")
	2 (6.6)	kg (lb)			1,751* (3,860*)	1,562 (3,444)	1,394* (3,073*)	1,007 (2,220)	987 (2,176)	712 (1,570)	842 (1,856)	606 (1,336)	5.51 (18'1")
	1 (3.3)	kg (lb)			2,089 (4,605)	1,425 (3,142)	1,341 (2,956)	949 (2,092)	959 (2,114)	686 (1,512)	811 (1,788)	580 (1,279)	5.58 (18'4")
	0 (0)	kg (lb)	1,244* (2,743*)	1,244* (2,743*)	1,997 (4,403)	1,344 (2,963)	1,292 (2,848)	905 (1,995)	936 (2,064)	665 (1,466)	833 (1,836)	593 (1,307)	5.43 (17'10")
	-1 (-3.3)	kg (lb)	2,374* (5,234*)	2,374* (5,234*)	1,972 (4,348)	1,323 (2,917)	1,272 (2,804)	886 (1,953)	931 (2,053)	660 (1,455)	921 (2,030)	653 (1,440)	5.04 (16'6")
	-2 (-6.6)	kg (lb)	3,857* (8,503*)	2,561 (5,646)	1,993 (4,394)	1,341 (2,956)	1,285 (2,833)	898 (1,980)					
Arm: 1 650mm (5'5") + Dozer blade down	3 (9.8)	kg (lb)					1,314* (2,897*)	1,064 (2,346)					
	2 (6.6)	kg (lb)			2,029* (4,473*)	1,575 (3,472)	1,534* (3,382*)	1,022 (2,253)	1,327* (2,926*)	727 (1,603)	1,289* (2,842*)	676 (1,490)	5.23 (17'2")
	1 (3.3)	kg (lb)			2,702* (5,957*)	1,454 (3,206)	1,791* (3,948*)	972 (2,143)	1,409* (3,106*)	706 (1,556)	1,329* (2,930*)	648 (1,429)	5.3 (17'5")
	0 (0)	kg (lb)			2,925* (6,449*)	1,396 (3,078)	1,929* (4,253*)	936 (2,064)	1,427* (3,146*)	691 (1,523)	1,364* (3,007*)	666 (1,468)	5.14 (16'10")
	-1 (-3.3)	kg (lb)	2,686* (5,922*)	2,686* (5,922*)	2,725* (6,008*)	1,388 (3,060)	1,840* (4,057*)	926 (2,041)					
	-2 (-6.6)	kg (lb)	3,289 (7,251)	2,748 (6,058)	2,095* (4,619*)	1,415 (3,120)							
Arm: 1 950mm (6'5") + 170kg (375 lb) Additional counterweight + Dozer blade down	3 (9.8)	kg (lb)					1,162* (2,562*)	1,053 (2,321)	1,158* (2,553*)	729 (1,607)	1,057* (2,330*)	678 (1,495)	5.21 (17'1")
	2 (6.6)	kg (lb)			1,751* (3,860*)	1,562 (3,444)	1,394* (3,073*)	1,007 (2,220)	1,228* (2,707*)	712 (1,570)	1,060* (2,337*)	606 (1,336)	5.51 (18'1")
	1 (3.3)	kg (lb)			2,492* (5,494*)	1,425 (3,142)	1,679* (3,702*)	949 (2,092)	1,339* (2,952*)	686 (1,512)	1,130* (2,491*)	580 (1,279)	5.58 (18'4")
	0 (0)	kg (lb)	1,244* (2,743*)	1,244* (2,743*)	2,857* (6,299*)	1,344 (2,963)	1,870* (4,123*)	905 (1,995)	1,403* (3,093*)	665 (1,466)	1,250* (2,756*)	593 (1,307)	5.43 (17'10")
	-1 (-3.3)	kg (lb)	2,374* (5,234*)	2,374* (5,234*)	2,785* (6,140*)	1,323 (2,917)	1,860* (4,101*)	886 (1,953)	1,307* (2,881*)	660 (1,455)	1,284* (2,831*)	653 (1,440)	5.04 (16'6")
	-2 (-6.6)	kg (lb)	3,857* (8,503*)	2,561 (5,646)	2,310* (5,093*)	1,341 (2,956)	1,521* (3,353*)	898 (1,980)					

Equipment

STANDARD EQUIPMENT

Engine

Volvo 4-cylinders, vertical, In-line, electronically controlled, water-cooled, diesel engine; meeting EU Stage V or EPA Tier 4f environmental regulations. Diesel Oxidation Catalyst and Diesel Particulate Filter exhaust after treatment system with 6000 hours service interval.

Engine restart prevention system: starter motor is protected against ignition when the engine is already running.

Safe engine start function: the left console must be raised to operate the starter.

Time adjustable auto-idling system.

Eco mode.

Dry-type dual element air filter.

Plastic fuel tank with drain plug.

Protective strainer on the fuel filling pipe.

Fuel filter with water separator.

Drivetrain

Axial piston hydraulic motors equipped with an epicyclic reduction gears.

Automatic two speed travel.

Multi-disc track brakes, spring-applied and hydraulic released.

5 bottom flanged rollers lubricated for life.

Grease tensioning wheel lubricated for life.

Electric / Electronic control system

Maintenance free battery.

IP67 protected electrical system and high quality connectors.

Battery cut-off switch protected in engine compartment.

In-cab 12V power socket.

In-cab USB charging port

In-cab diagnostic port.

In-cab fuse box.

One LED working light on top front left of the cab.

Swing system

Radial piston hydraulic motor with direct engagement on the ball internal crown wheel (no reduction gears).

Integrated shockless valve.

Automatic multi-disc slew brake.

Centralized and remote lubrication of crown wheel & ball bearing.

Undercarriage

"X" shape, box welded fabricated frame with sloping side members.

2 Tie-down points on the dozer blade.

2 Tie-down points on the frame.

2 Integrated lifting points.

Sturdy removeable protecting covers for track motors and slew system.

400HB weld-on edge on dozer blade

Hydraulic system

Variable displacement, load-sensing piston pump.

Closed centre flow-sharing main control valve.

Single and double acting hydraulic circuit for auxiliaries.

In-cab electrically controlled changeover valve for main auxiliary circuit.

Proportional controls with flow and direction adjustment for all auxiliary circuits.

Cylinder cushioning on boom up, arm in and out.

Large hinged and key-locked access panel.

Patented filtering and filling element.

Single layer cooling system.

Plastic tank with drain plug.

STANDARD EQUIPMENT

Cab

FOPS on top level 1 (Falling Object Protective Structure).

TOPS (Tip-Over Protective Structure).

ROPS (Roll-Over Protective Structure).

Cushioned operator station.

Height adjustable seat, consoles and joysticks; all suspended together.

Retractable 2" orange seat belt with warning indicator.

Highly visible orange handrail and cab entry step.

Large door access.

Large and roomy uncluttered floor with easy to clean floor mat.

Gas-strut assisted front window opening.

Full opening front bay with in-cab storage for the front lower window.

Front windscreen wiper and washer nozzle.

Right hand side sliding window.

Heating system.

Multiple adjustable air vents.

Filtered air inlet with large size and easy to replace element.

Cab inside light.

LCD display.

Large capacity key-locked toolbox.

Digging equipment

Monobloc box welded 2.85m (9.4 ft) boom.

Boom cylinder rod protection.

In-track swing frame: the boom offset cylinder is below the cab.

Integrated lifting point on the boom.

Monobloc box welded arm.

Long-life steel bushings.

Hardened, pre-lubricated and corrosion resistant pins.

Remote greasing point for arm cylinder with ground level access.

50 hours greasing intervals.

Instrumentation and monitoring

High contrast LCD display with day and night modes enabling good readability whatever lighting conditions.

Gauges for fuel and coolant temperature levels, engine speed, auxiliary and boom offset flows.

Icons & graphics for engine and work modes.

Colour coded messages and help menu.

Hourmeter.

Self-acting emergency engine shutdown. Prevents failures in case of coolant overheating or too low engine oil pressure.

Warning lights for hydraulic filter and air filter restriction.

Several warning lights, coupled to an audible signal, in the event of malfunction (overheating, drop in oil pressure, low battery voltage...)

Machine control system

Finger tip control for boom offset.

Finger tip control for auxiliary circuit.

Breaker toggle switch on right joystick.

Jogwheel for easy navigation and engine speed adjustment.

Automatic locking device for the controls when the left console is raised.

Pressure accumulator to lower the equipment on the ground when the engine is switched off.

Two speed change button on the dozer lever.

Large travel pedals.

Official approval

Machine conforming to European directive 2006/42/EC.

Noise emissions in the environment conforming to directive 2000/14/EC.

Hand Arm Vibrations - Whole Body Vibrations compliant with directive 2002/44/EC.

Electromagnetic compatibility (EMC) conforming to European directive 2004/108/EC and its amendments.

Object handling device conforming to EN 474-1 and EN 474-5 standards.

FOPS on top level 1 conforming to ISO 10262 standard.

TOPS conforming to ISO 12117 and EN 13531 standards.

ROPS conforming to ISO 3471-1 and / SAE J1040 standards.

Equipment

STANDARD AND OPTIONAL EQUIPMENT

- * = Standard
- o = Optional

Engine

ECO mode	*
Engine auto idling with time adjustment	*
Engine auto shutdown with time adjustment	o
35lpm fuel filling pump with auto-stop	o

Hydraulics

Proportional finger tip control for boom offset	*
Proportional finger tip control for accessories	*
Single and double acting main accessory circuit	*
"Detent" mode for main accessory circuit	*
Work modes to match machine settings to accessories in use	*
Bucket or grapple change over valve	o
Breaker & shear X1	*
- Max. flow: 75 l/min (19.8 gal/min)	
- Pressure: 22 MPa (3,191 psi)	
Slope & rotator X3	o
- Max. flow: 40 l/min (5.3 gal/min)	
- Pressure: 22 MPa (3,191 psi)	
Hydraulic drain including flat face coupling for accessories	o
Flat face hydraulic quick couplings for main and second accessories circuits	o
Single acting circuit for quick couplers	o
Double acting circuit for quick couplers	o
Boom and arm safety lifting valves with overload Indicator	o
Boom, arm and dozer blade safety lifting valves with overload indicator	o
Safety valve certification	o
Mineral hydraulic oil VG46	o
Bio hydraulic oil VG46 (PANOLIN®)	o
Mineral hydraulic oil VG68	o
Mineral hydraulic oil VG32	o
Bio hydraulic oil VG32 (PANOLIN®)	o

Operator environment

Cab with heater	*
Cab with heater and manual air conditioning	o
Vinyl high back seat	o
Textile high back seat	o
Head rest	o
3" Seat belt	o
Height adjustable arm rest	*
Large size monoblock travel pedals	*
Bottle holder	*
Large capacity storage box	*
Lockable backrest storage box	o
Net	*
Coat hook	*
Ceiling light	*
Radio preparation	*
Radio (AUX, USB, SD, Bluetooth, DAB)	o
1 x 12V power socket	*
2 x USB charging ports	*
Control pattern change	o
Travel alarm	o
Codelocked anti-theft device	o
Additional hour meter	o
Large capacity, key-lockable toolbox	*

STANDARD AND OPTIONAL EQUIPMENT

- * = Standard
- o = Optional

Undercarriage

400mm (15.7 in) rubber tracks	o
400mm (15.7 in) rubber pads on steel chain	o
380mm (15.0 in) steel tracks	o
400mm (15.7 in) add-on rubber pads on steel shoe	o
Standard dozer blade	*
Floating dozer blade	o

Machine exterior

Right rearview mirror	o
Left rearview mirror	o
Front left LED worklight on cab roof	*
Front right LED worklight on cab roof	o
Rear right LED worklight on cab roof	o
Amber flashing LED beacon	o
2 x cab mounted LED worklights illuminating left & right sides of the machine	o
Green flashing LED beacon (lights-up when to operator has buckled the seat belt)	o
Protected LED worklight on the boom	o
Additional counterweight	o
Several level of paint customisation (RAL specifications) to match with your corporate identity	o

Digging equipment

Standard arm	o
Long arm + additional counterweight	o

Service and maintenance

In-cab diagnostic socket	*
Service reminder	*
Tool kit	o

Attachments

Volvo quick coupler mechanical or hydraulic (pin-on)	o
LH hydraulic quick coupler with lifting hook (HS03)	o
Symmetrical-type hydraulic quick coupler with lifting hook (S40)	o
Hydraulic side tilting quick coupler with lifting hook (HS03 & S40)	o
Tiltrotators (S40)	o
A choice of 30 cm (12.6 in) / 62 L (16.4 gal) up to 90 cm (35.4 in) / 235 L (62 gal) general purpose buckets	o
A choice of general purpose, twin pick or spade nose teeth	o
Bolt-on side cutters for general purpose buckets	o
A choice of fix or hydraulic tiltable ditching buckets	o
Hydraulic breaker HB06LN	o

Telematics

Care Track	o
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SELECTION OF VOLVO OPTIONAL EQUIPMENT

Dozer float



Hands-free phone compatible / BlueTooth® radio



Custom color



Long arm, extra counterweight



Auxiliary hydraulics for all attachments



Track types



Not all products are available in all markets. Under our policy of continuous improvement, we reserve the right to change specifications and design without prior notice. The illustrations do not necessarily show the standard version of the machine.

RESOLUTION NO. _____

A RESOLUTION AWARDED BID IFB 22-75 TO BOBCAT OF NORTHWEST ARKANSAS FOR THE PURCHASE OF A 2022 OR CURRENT MODEL COMPACT EXCAVATOR (LONG ARM) IN THE AMOUNT OF ONE HUNDRED THREE THOUSAND EIGHT HUNDRED THIRTY-TWO DOLLARS AND TWENTY-EIGHT CENTS (\$103,832.28); AND FOR OTHER PURPOSES.

WHEREAS, Bobcat of Northwest Arkansas is the lowest qualified bidder for bid IFB-22-75;

WHEREAS, this contract covers the purchase of one 2022 or current model compact excavator (long arm); and

WHEREAS, this will be paid with budgeted funds in the amount of one hundred three thousand eight hundred thirty-two dollars and twenty-eight cents (\$103,832.28).

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

Section 1: The Mayor and City Clerk are authorized to enter into a contract with Bobcat of Northwest Arkansas for the purchase of one 2022 or current model compact excavator (long arm);

Section 2: The estimated contract cost is one hundred three thousand eight hundred thirty-two dollars and twenty-eight cents (\$103,832.28);

Section 3 - Severability Provision: If any part of this Resolution is held invalid, the remainder of this Resolution shall continue in effect as if such invalid portion never existed; and

Section 4 - Repeal of Conflicting Resolutions: All Ordinances, Resolutions, or Orders of the City Council, or parts of the same, in conflict with this Resolution are repealed to the extent of such conflict.

PASSED and APPROVED this _____ day of _____, 2022.

APPROVED:

Stephanie Orman, MAYOR

ATTEST:

Kirby Romines, CITY CLERK



Agenda Item Form

Date of City Council Meeting	8/11/2022
Department	City Attorney - for Street Department
Submitted by	George Spence
Phone	479-273-2777

Item Type: (Check Applicable Item Type)					
☒ Budget Adjustment	☐ Change Order	☐ Informational	☐ Ordinance	☒ Resolution	☐ Bid Award
Recommendation/Suggested Action (Enter recommendation in space below):					
Motion to approve resolution approving the settlement of the condemnation case the City filed against FSB Realty, LLC and authorizing a budget adjustment and expenditure of funds related thereto.					

Estimated Cost	\$43,314
Is this Item Budgeted?	☐ Yes ☒ No
If no, please explain how item will be funded (briefly explain in space below) :	
This money will come out of the General Fund.	





Budget Adjustment Request

Date of City Council Meeting	8/23/2022
Department	Street (submitted by City Attorney)
Submitted by	George Spence
Phone	479-273-2777

Purpose of Budget Adjustment (Enter purpose in space below):
Additional settlement of the condemnation case filed against FSB Realty, LLC @ 403 SE 8th Street.

General Ledger Account Information*				
Org (Department)	Object	Account Description	Revenue + (-)	Expense + (-)
203810	47381	Improv - 8th Street		\$ 43,314.00
		Totals	\$ -	\$ 43,314.00
		Net Impact on Fund Balance	\$ (43,314.00)	

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



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PLEASE RECYCLE



MEMORANDUM

To: Bentonville City Council, Mayor Stephanie Orman
Cc: Kirby Romines, City Clerk
From: George R. Spence, City Attorney
Date: August 11, 2022
Re: Settlement of City v. FSB Realty, LLC

In the 2013-2014 timeframe, the City initiated a project to obtain right of way and easements in connection with the plan to widen 8th Street and connect it to I-49. My recollection is there were about 100 parcels which had to be addressed and the company we retained to handle the project settled all but 10-12 of them.

We were forced to file condemnation cases on those properties and did so beginning in about 2015. All of those court cases have been previously settled except one against FSB Realty, LLC related to property formerly located at 403 SE 8th Street. Based on our initial appraisal, we paid \$82,700 when the case was initially filed. After the filing, we had the appraisal brought up to that date and paid in an additional \$31,300 as the value had increased to \$114,000.

The City has been prepared throughout to mediate (or try) this case, but it had been dead in the water until about a year ago.

We have agreed to a proposed settlement conditioned on Council approval in the amount of \$157,314. I recommend this settlement based on everything I know about the case and the costs and risks of taking it on to trial. The proposed settlement would be proportionally consistent with the amounts we paid for the other properties where the City was required to file a court case. A budget adjustment of \$43,314 is necessary to provide funding to pay the settlement amount.

The alternative would be to allow this case to go forward to trial.

RESOLUTION NO. _____

**A RESOLUTION APPROVING THE SETTLEMENT OF
THE CONDEMNATION CASE THE CITY FILED
AGAINST FSB REALTY, LLC; AUTHORIZING THE
EXPENDITURE OF FUNDS RELATED THERETO;
AMENDING THE 2022 BUDGET; AND FOR OTHER
PURPOSES.**

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

Section 1: That the Mayor is authorized to complete the settlement of the City's condemnation case against FSB Realty, LLC, with the full settlement amount of one hundred fifty-seven thousand three hundred fourteen dollars (\$157,314.00); and

Section 2: That an adjustment to the budget, in the amount of forty-three thousand three hundred fourteen dollars (\$43,314.00), is approved for account #203810-47381, Improvements – 8th Street, to allow for payment of the funds still due related to the settlement.

PASSED and APPROVED this _____ day of _____, 2021.

APPROVED:

STEPAHNIE ORMAN, Mayor

ATTEST:

KIRBY ROMINES, City Clerk



Agenda Item Form

Date of City Council Meeting	8/23/2022
Department	Parks and Recreation
Submitted by	Josh Stacey
Phone	(479) 696.0204

Item Type: (Check Applicable Item Type)					
☐ Budget Adjustment	☐ Change Order	☐ Informational	☒ Ordinance	☐ Resolution	☐ Bid Award
Recommendation/Suggested Action (Enter recommendation in space below):					
Ordinance approving a Waiver of Bid in the amount of \$42,000.00 to TeamE Multisport for the service of providing adult masters swim instruction and triathlon services for Bentonville Parks and Recreation.					

Estimated Cost	\$42,000.00
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	8/23/2022
Department	Parks and Recreation
Submitted by	Josh Stacey
Phone	(479) 696-0204

Vendor	TeamE Multisport
Total Cost	\$42,000

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):*

Parks and Recreation utilizes independent contractors and community partners, as opposed to employees, to teach and administer many of our recreation programs. These include select summer camps, tennis services, and masters swim coaching to list a few.

Justification *(Enter justification in space below):*

The demand for these classes and services has increased significantly over the last year. Due to the high demand and registrations, TeamE Multisport is now expected to exceed \$35,000 in total payments over the course of 2022. We are requesting Council approval to pay TeamE Multisport an amount exceeding \$35,000 during the 2022 year. The estimated payment for 2022 is \$42,000. This contract is completely funded by program registration fees.



Memo



To: City Council, Mayor Orman
From: Josh Stacey, Recreation Services Manager
Through: David Wright, Parks and Recreation Director
Date: August 10, 2022
Re: TeamE Multisport Bid Waiver

Bid Waiver in the amount of \$42,000 to TeamE Multisport for the service of providing adult masters swim instruction and triathlon services for Bentonville Parks and Recreation.

Bentonville Parks and Recreation utilizes a professional swim and triathlon providers to offer adult masters swim team instruction and triathlon camp and team instruction throughout the year. Our original contract amount and revenue projection was \$32,800. Due to increased demand for these services, we are now projecting the total payment to one of our providers, TeamE Multisport, to exceed \$35,000. Our new estimated payment to TeamE Multisport for 2022 programming is \$42,000. This expense is fully recouped through registration fees for this program and is a budgeted item.

If you have any questions regarding this item, please let me know. Please call me at 696.0204, or email jstacey@bentonvillear.com.



CITY OF BENTONVILLE, ARKANSAS

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

City Hall – 305 SW A Street Bentonville, Arkansas 72712

AMENDMENT TO INDEPENDENT CONTRACTOR AGREEMENT

This Amendment (the "Amendment"), dated August (month) 8 (day), 2022 is made by the City of Bentonville, Arkansas ("CITY") and Team E Multi Sport ("INSTRUCTOR"), parties to the Independent Contractor Agreement for providing professional instruction of Youth Triathlon Team, Camp Triathlon and Masters Swim Team, dated January 1 (month, day), 2022 (the "Agreement").

1. The original Agreement stated that the total of payments for the term of the Agreement shall not exceed \$ 33,000.
2. The Agreement is Amended as follows:
 - a. The total of payments for the term of the Agreement estimated to be \$42,000.
3. Except as set forth in this Amendment, the Agreement is unaffected and shall continue in full force and effect in accordance with its terms. If there is conflict between this Amendment and the Agreement, or any earlier Amendment, the terms of this Amendment shall prevail.

THE CITY OF BENTONVILLE, ARKANSAS

BY: _____
Name (printed): Stephanie Orman, Mayor

Team E Multi Sport
Company Name

BY: _____
Name (printed): Erin Edminister
Title: _____



CITY OF BENTONVILLE

ARKANSAS

MEMORANDUM OF UNDERSTANDING

To: TeamE Multi Sport

From: City of Bentonville, Arkansas Parks and Recreation Department

Date: December 21, 2021

Re: Partnership for providing instruction services for Camp Triathlon, Masters Swim Team and Youth Triathlon Team for Bentonville Parks and Recreation

1. Intent.

This Memorandum of Understanding (MOU) intends to outline the partnership and working arrangement between TeamE Multi Sport ("Provider") and the City of Bentonville, Arkansas (City), for the use and benefit of Bentonville Parks and Recreation Department (BPR) instruction services for Camp Triathlon, Masters Swim Team and Youth Triathlon Team (referred to as "Program").

2. Term.

The term for this MOU shall be for one (1) year, beginning on January (month), 01 (day), 2022 (year) and ending on December (month), 31 (day), 2022 (year).

- A. In the event that Program days or times are cancelled (due to inclement weather such as rainouts, or class cancellations), additional dates may be added to the end of the Program season as "make-up dates", or additional classes may be added as "make-up classes", as applicable to the Program described in this MOU. BPR will communicate the need for make-up dates to Provider. Provider agrees to be present for make-up dates or classes.
- B. This MOU may be renewed by Amendment, annually upon mutual written agreement, for a maximum term of three (3) years. There shall be no change in the intent, pricing (excluding estimated totals), or terms and conditions of this MOU during the original term or for any renewal year. Mutually agreed upon changes in the schedule (days/times etc.) for renewal years shall be handled via Amendment at the time of renewal. Any Amendment to this MOU may require approval from the Bentonville City Council.

3. Duties of the City.

Bentonville Parks and Recreation:

- A. Is responsible for camps, recreation programs, instruction services, classes and other recreation programs for the citizens of Bentonville.
- B. Will create the program format, allowing for input and recommendation from Provider.
- C. Will create marketing and registration material for the program(s), allowing for input and recommendation from Provider where it pertains to participant's needs.
- D. Will create all schedules for all programs, allowing for input and direction from Provider where it pertains to participant needs.
- E. Will provide BPR employees or counselors, if necessary, to participate with check-in and check-out for the program(s), or other operations of the program(s). BPR shall have the final determination if BPR employee participation is necessary.

Administrative Services
Purchasing Department
1000 SW 14th Street
Bentonville, AR 72712



CITY OF BENTONVILLE

City Hall
305 SW A Street
Bentonville, AR 72712

ARKANSAS

4. Duties of the Provider.

Provider:

- A. Will provide instruction services for the camps and teams described in this MOU.
- B. Is responsible for finding their own substitute, if necessary, and notifying BPR management in advance for approval.

5. Location and Schedule.

A. Location

Bentonville Community Center (1101 SW Citizens Circle Bentonville, AR) and Melvin Ford Aquatic Center (2000 NE Memorial Park Square)

B. Schedule

The schedule will be set by BPR and communicated to Provider.

6. Payment.

City agrees to pay Provider the following rate(s) for the Program.

a. Camps/Teams Payments:

Description	Unit of Pay	Payment Amount
Camp Triathlon	Per Participant	\$45.50
Triathlon Team Instruction	Per Participant	\$165.00
Triathlon Team Instruction Year Round Program	Per Participant	\$60.00
Masters Swim Team Instruction	Per Participant	\$25.00
Master Swim Team Drop In Fee	Per Participant	\$5.25

- b. Estimated total payment in 2022: **\$32,800.00**
- c. Payment will be made only for completed sessions of the program(s).
- d. The total of payments to Provider for the term of this MOU shall not exceed \$33,000.00 without an Amendment. Amendment to increase the maximum amount of payments may require approval from the Bentonville City Council.

7. Invoicing.

Provider shall submit an invoice for the program(s) upon conclusion of the program season to the remittance address below within one (1) week from conclusion of the season. Provider is responsible for confirming that the City has received the invoice. Invoices received correctly and on time will be paid within fourteen (14) days of receipt. Invoices shall be submitted to:

Via Mail:

City of Bentonville Administrative Services
ATTN: Accounts Payable
1000 SW 14th Street
Bentonville, AR 72712

Via Email: accountspayable@bentonvillear.com

**CITY OF BENTONVILLE****ARKANSAS**

8. Terms and Conditions.

- A. Payments will only be made for participants whom actually attend/participate in the Program(s). No payments will be made for cancelled Program(s), or for participants who do not attend/participate in the Program(s). This includes classes, lessons, camps, special programs etc.
- B. Provider and Provider's personnel are required to display professional etiquette at all times. This MOU may be voided immediately by the City if Provider's or any of their personnel exhibits behavior that is detrimental to the operation of BPR.
- C. Provider understands that neither Provider, nor any of Provider's employees or independent contractors are employees of the City of Bentonville, and that Provider is solely responsible for their employees and independent contractors.
- D. Provider may be required to maintain insurance and provide proof of such. Provider is responsible for maintaining insurance for themselves, their employees or independent contractors, as applicable and as required by law.
- E. It is understood that Provider is not acting as an agency for the City (or BPR) and that the City's statutory immunity does not extend to Provider's acts or omissions.
- F. Upon the time of signing this MOU, Provider shall provide BPR with IRS Form W-9, and proof of Worker's Compensation Insurance as required by Arkansas Law.
- G. Provider and any of Provider's personnel who will be on-site providing the Program will be required to pass a mandatory background check, to be administered by BPR, prior to the Program beginning.
- H. Provider indemnifies and holds harmless the City and all City personnel and officials against any liability resulting from Provider's negligence or wrongful acts, failure or breach of law.
- I. Termination:
 - a. General: This MOU may be terminated with ninety (90) days written notification from the BPR Director or assignee, or Provider.
 - b. Termination for Cause: Breach of this MOU may result in immediate termination by the BPR Director or assignee.
 - c. Termination for Lack of Funding: If, for whatever reason, adequate funding is not made available by City to support or justify continuation of the level of services to be provided by Provider under this MOU, City may terminate or reduce the amount of services to be provided by Provider under this MOU. In such event, City will notify Provider in writing at least thirty (30) days in advance of such termination or reduction of services for lack of funds.

Administrative Services
Purchasing Department
1000 SW 14th Street
Bentonville, AR 72712



CITY OF BENTONVILLE
ARKANSAS

City Hall
305 SW A Street
Bentonville, AR 72712

SIGNATURE PAGE

City of Bentonville, Arkansas

January 14, 2022 | 3:26 PM CST

Date: _____

Name: Stephanie Orman, Mayor

Signature: _____

Provider

Date: 1/13/22

Name: Erin Edminister

Signature: _____

Address: 4703 SW Newcastle Rd.

Bentonville, AR 72713

ORDINANCE NO. _____

AN ORDINANCE WAIVING COMPETITIVE BIDDING FOR THE SERVICE OF PROVIDING ADULT MASTERS SWIM AND TRIATHLON INSTRUCTION; AUTHORIZING THE MAYOR AND CITY CLERK TO ENTER INTO AN AGREEMENT WITH TEAME MULTI SPORT FOR THIS SERVICE; AND FOR OTHER PURPOSES.

WHEREAS, the Bentonville Parks and Recreation department utilizes a professional swim and triathlon provider to offer adult masters swim team instruction, as well as triathlon camp and team instruction throughout the year;

WHEREAS, due to the increased demand for this instruction, the cost for this service is forty-two thousand dollars (\$42,000.00) which necessitates the need to waive bidding; and

WHEREAS, this item is exclusively funded by the registration fees of participants.

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

Section 1: The Mayor and City Clerk are authorized to enter into an agreement, in the amount of forty-two thousand dollars (\$42,000.00), with TeamE Multi Sport for adult swim and triathlon instruction;

Section 2: There exists an exceptional circumstance whereby the requirements of competitive bidding are neither practical nor feasible and the City Council; therefore, waives the requirements of competitive bidding for City youth camp programming;

Section 3 - Severability Provision: If any part of this Ordinance is held invalid, the remainder of this Ordinance shall continue in effect as if such invalid portion never existed; and

Section 4 - Repeal of Conflicting Provisions: All Ordinances, Resolutions, or Orders of the City Council, or parts of the same, in conflict with this Ordinance are repealed to the extent of such conflict.

PASSED this _____ day of _____, 2022.

APPROVED:

STEPHANIE ORMAN, Mayor

ATTEST:

KIRBY ROMINES, City Clerk



Agenda Item Form

Date of City Council Meeting	8/23/2022
Department	Finance
Submitted by	Jake Harper
Phone	479-271-6781

Item Type: (Check Applicable Item Type)					
☐ Budget Adjustment	☐ Change Order	☐ Informational	☐ Ordinance	☒ Resolution	☐ Bid Award
Recommendation/Suggested Action (Enter recommendation in space below):					
Resolution to enter into an agreement with Excellerate Foundation dba Upskill NWA to provide ARPA funds to support job training for lower-income Bentonville residents who have been negatively impacted by the COVID-19 pandemic.					

Estimated Cost	\$287,731
Is this Item Budgeted?	☐ Yes ☒ No
If no, please explain how item will be funded (briefly explain in space below) :	
ARPA Funds will be utilized for this program/agreement.	





18 August, 2022

MEMORANDUM

From: Jake Harper, Finance Director

Subject: Sub-Grant with Upskill NWA

This sub-grant agreement with Excellerate Foundation dba Upskill NWA will use ARPA funds to support job training for lower-income Bentonville residents who have been negatively impacted by the COVID-19 pandemic. This funding will be provided in 5 yearly payments made at the beginning of each year after certain reporting requirements are met. See attached agreement with UpSkill NWA.

Respectfully,

Jake Harper
Finance Director

August 24, 2022

Carol Silva Morales
President/CEO - Upskill NWA
Excellerate Foundation dba Upskill NWA
800 Founders Park Drive
Springdale, AR 72762

Dear Ms. Morales,

It is my pleasure to inform you that the City of Bentonville ("the City") is awarding a sub-grant of \$287,731 to Excellerate Foundation dba Upskill NWA ("Sub-grantee") to serve as the managing entity of federal dollars awarded to the City through the American Rescue Plan Act of 2021. The project term will be September 1, 2022 through December 31, 2026. This sub-grant is subject to the following terms and conditions:

1. **Purpose:** The purpose of this sub-grant is to support job training for lower-income Bentonville residents who have been negatively impacted by the COVID-19 pandemic. Sub-grantee agrees to use all sub-grant funds exclusively for the sub-grant's purposes, as specified in Section 9901 of Subtitle M of Title IX of the American Rescue Plan Act of 2021 (March 11, 2021), as well as the related Final Rule (January 6, 2022), and FAQs and additional guidance issued by the United States Department of the Treasury.
2. **Amount:** Two Hundred Eighty-Seven Thousand Seven Hundred Thirty-One Dollars (\$287,731).
3. **Payable:** The sub-grant payments shall be initiated upon receipt of this completed letter from Sub-grantee acknowledging the terms and conditions set forth herein, and a letter request for distribution pursuant to this agreement. Sub-grantee should receive the initial installment within seven (7) days of completion of these items. Subsequent payments will be distributed as follows:

Installment	Amount	Requirement	Date
#1	\$57,546.00	Signed grant agreement and letter request for distribution.	On or <u>about</u> 9/15/2022
#2	\$57,546.00	Satisfaction of the City to the accuracy and transparency of the ongoing reporting provided by Sub-	2/15/2023

		grantee's web portal, as well as satisfaction with how program funds are being utilized and dispersed, and any supplementary information the City may request (within HIPAA guidelines).	
#3	\$57,546.00	Satisfaction of the City to the accuracy and transparency of the ongoing reporting provided by Sub-grantee's web portal, as well as satisfaction with how program funds are being utilized and dispersed, and any supplementary information the City may request (within HIPAA guidelines).	2/15/2024
#4	\$57,546.00	Satisfaction of the City to the accuracy and transparency of the ongoing reporting provided by Sub-grantee's web portal, as well as satisfaction with how program funds are being utilized and dispersed, and any supplementary information the City may request (within HIPAA guidelines).	2/15/2025
#5	\$57,546.00	Satisfaction of the City to the accuracy and transparency of the ongoing reporting provided by Sub-grantee's web portal, as well as satisfaction with how program funds are being utilized and dispersed, and any supplementary information the City may request (within HIPAA guidelines).	2/15/2026

4. **Accounting:** Sub-grantee will maintain records of receipts and expenditures for all sub-grant funds, all expenditures made in connection with the sub-grant funds, and will keep these records during the period covered by the Sub-grantee's reporting obligations specified in paragraph 5 and for at least four years thereafter, or for any extended period that might be required by the United States Department of the Treasury ("Maintenance Period"). Sub-grantee will make its books and records in connection with the sub-grant funds available for inspection by the City during normal business hours as the City may request at any time during the Maintenance Period. At any time that the Sub-grantee determines to discontinue the program, all records will be provided to the City to provide full reporting as stated below and to comply with any state or federal laws. The Sub-grantee will provide the City with a written notification 90 days in advance of discontinuing the program.

5. **Reporting and Evaluation:** Sub-grantee will provide the City with ongoing reporting via Sub-grantee's web portal. The information provided shall include all reporting items as specified in Section 9901 of Subtitle M of Title IX of the American Rescue Plan Act of 2021 (March 11, 2021), as well as the related Final Rule (January 6, 2022), the Compliance and Reporting Guide (November 15, 2021), any subsequent rules issued and FAQs and additional guidance issued by the United States Department of the Treasury. Sub-grantee shall also provide an accounting of all funds expended on administrative costs in the implementation of this sub-grant. In the event the sub-grantee web portal is not available the sub-grantee will provide the City with ongoing reporting by any means that will provide the city information for internal review and for information to meet federal, state, or other reporting requirements.

The City will receive a report each January with information that includes but is not limited to:

- (a) Student information including address;
- (b) Detail cost of the program for each student; and
- (c) List of all funding sources that are utilized to pay for the program cost for each student.

This report will be provided before or at the time of the billing for the next year's grant and is required for payment of such billing.

Additional information may be requested by the City at any time during the Maintenance Period, especially in regards to information necessary for the City to report on its awarded funds from the federal government.

6. **Representations:** Sub-grantee represents and warrants to the City that:

- (a) Sub-grantee is an organization in good standing, is either an organization described in section 501(c)(3) of the Internal Revenue Code ("Code") or a governmental unit, and is not a "private

foundation" described in section 509(a) of the Code. Sub-grantee will promptly notify the City of any change in Sub-grantee's tax status under the Code.

(b) In no event will Sub-grantee use any sub-grant funds:

(i) to carry on propaganda, campaign, endorse, or otherwise attempt to influence legislation;

(ii) to influence the outcome of any specific public election or to carry on, directly or indirectly, any voter registration drive; or

(iii) to undertake any activity other than for a charitable, educational, or other exempt purpose specified in section 170(c)(2)(B) of the Code and authorized under the terms of this sub-grant award.

(c) Sub-grantee will comply with all applicable laws and regulations.

7. Repayment: Sub-grantee agrees to repay to the City any portion of the sub-grant funds not used for the sub-grant's purposes. In addition, the City may direct Sub-grantee to repay any unexpended sub-grant funds to the City, if any of the following events occurs:

(a) Sub-grantee ceases to maintain its tax-exempt status as described in paragraph 6(a) above;

(b) Sub-grantee fails to comply with the terms of this award; or

(c) City terminates this program.

8. Release and Indemnity: Unless prohibited by law, Sub-grantee shall release, indemnify, defend, and hold harmless the City and its directors, officers, employees, and agents from and against any and all claims, actions, suits, demands, damages, losses, expenses, and liabilities, arising out of or related in any way to the actions or omissions of Sub-grantee (or its directors, officers, employees, agents, or contractors) in connection with the Sub-grant and the project funded by the Sub-grant, except to the extent caused by the City's (or its directors', officers', employees', or agents') negligent actions or omissions.

9. Sub-grant Publicity: The City and Sub-grantee agree to collaborate on any publicity related to this project and have the mutual right to approve such publicity. If publicized or recognized, the sub-grant should be listed as from "the City of Bentonville, Arkansas", and the Sub-grantee should be listed as "Upskill NWA".

The City may ask Sub-grantee to provide illustrations, photographs, videos, recordings, information, or other materials related to the sub-grant (collectively "Sub-grant Work Product") for use in City communications including the City's website, newsletters, presentations,

communications, and other publications. Sub-grantee agrees to provide the City with such items upon the City's reasonable request.

10. **Administration:** The Sub-grantee will administer the grant funds being provided by the City and shall provide reports to the City regarding such administration, in conformance with Section 9901 of Subtitle M of Title IX of the American Rescue Plan Act of 2021 (March 11, 2021), as well as the related Final Rule (January 6, 2022), any subsequent rules issued, and FAQs and additional guidance issued by the United States Department of the Treasury. The City may cancel this agreement at any time.

11. **Freedom of Information Act:** Sub-grantee acknowledges that since this agreement relates to public funds, its administration of this grant is subject to public scrutiny generally, as well as through the application of the Arkansas Freedom of Information Act (Ark. Code Ann. §§ 25-19-101 et seq.) ("FOIA"). Sub-grantee acknowledges that it will accordingly be responsible for responding appropriately to requests pursuant to the FOIA for records related to the administration of the grant funds. City shall incur no liability with regard to sub-grantee's compliance with this requirement, though sub-grantee may include costs as authorized by Arkansas Code Annotated Sections 25-19-101 et. seq.. (Note - the requirements of the FOIA will apply only to records concerning the grant funds and not to the other activities or records of the sub-grantee.)

12. **Contact:** For all communications regarding this sub-grant, your point of contact at the City will be Jake Harper, who can be contacted via phone or email as follows:

jharper@bentonvillear.com

Please reference "Upskill NWA" in your communication.

On behalf of the City, I extend every good wish for the success of your organization's endeavors.

Sincerely,

STEPHANIE ORMAN, Mayor

ACKNOWLEDGED AND AGREED

By:

Carol Silva Morales (Date)
President/CEO, Upskill NWA

cc: Jeff Webster, Justin Fletcher

RESOLUTION NO. _____

A RESOLUTION ALLOWING THE MAYOR AND CITY CLERK TO ENTER INTO A SUB-GRANT AGREEMENT WITH EXCELLERATE FOUNDATION D/B/A UPSKILL NWA, IN THE AMOUNT OF TWO HUNDRED EIGHTY-SEVEN THOUSAND SEVEN HUNDRED THIRTY-ONE DOLLARS (\$287,731.00), UTILIZING AMERICAN RESCUE PLAN ACT FUNDS TO SUPPORT JOB TRAINING FOR QUALIFYING BENTONVILLE RESIDENTS; AND FOR OTHER PURPOSES.

WHEREAS, this sub-grant allows Excellerate Foundation d/b/a Upskill NWA to provide job training to lower-income Bentonville residents who have been negatively impacted by the Covid-19 pandemic;

WHEREAS, this agreement will be funded using American Rescue Plan Act (ARPA) funds, and

WHEREAS, five (5) yearly payments will be made at the beginning of each year after specified reporting requirements are met.

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

Section 1: The Mayor and City Clerk are authorized to enter into a sub-grant agreement with Excellerate Foundation d/b/a Upskill NWA in an amount not to exceed two hundred eighty-seven thousand seven hundred thirty-one dollars (\$287,731.00) to provide job support for lower income Bentonville residents negatively impacted by the Covid-19 pandemic;

Section 2: This sub-grant will be funded with ARPA monies;

Section 3 - Severability Provision: If any part of this Resolution is held invalid, the remainder of this Resolution shall continue in effect as if such invalid portion never existed; and

Section 4 - Repeal of Conflicting Provisions: All Ordinances, Resolutions, or Orders of the City Council, or parts of the same, in conflict with this Resolution are repealed to the extent of such conflict.

PASSED this _____ day of _____, 2022.

APPROVED:

STEPHANIE ORMAN, Mayor

Attest:

KIRBY ROMINES, City Clerk