

**BENTON CITY COUNCIL**

**June 28, 2021**

**6:00 PM**

**AGENDA**

- I. CALL TO ORDER Mayor Tom Farmer**
- II. INVOCATION Jimmy DeLamar**
- III. PLEDGE OF ALLEGIANCE Council Member Morrow**
- IV. ROLL CALL City Clerk**
- V. SPECIAL PRESENTATION FROM SALINE COURIER**
- V. APPROVAL OF MINUTES May 24, 2021  
Regular Meeting**

**VI. COMMITTEE REPORTS & MOTIONS**

- 1. FINANCE COMMITTEE Council Member Morrow**

**ORDINANCE NO. 30 OF 2021**

**AN ORDINANCE AUTHORIZING AN INCREASE FOR THE LOCAL FIRE PENSION THAT CONSOLIDATED INTO LOPFI; AND FOR OTHER PURPOSES**

**ORDINANCE NO. 31 OF 2021**

**AN ORDINANCE REVISING THE CITY OF BENTON PURCHASING POLICIES AND PROCEDURES AS ADOPTED IN ORDINANCE 68 OF 2016**

**ORDINANCE NO. 32 OF 2021**

**AN ORDINANCE WAIVING COMPETITIVE BID AND APPROVING THE PURCHASE OF IT EQUIPMENT, AND DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES**

**ORDINANCE NO. 33 OF 2021**

**AN ORDINANCE WAIVING COMPETITIVE BID AND APPROVING THE PURCHASE OF 2 CHEVROLET TAHOES, AND DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES**

**RESOLUTION NO. 55 OF 2021**

**A RESOLUTION DECLARING CERTAIN PROPERTY AS SURPLUS; AND AUTHORIZING THE SALE OF THE SURPLUS PROPERTY AT AUCTION**

**RESOLUTION NO. 56 OF 2021**

**A RESOLUTION AUTHORIZING THE MAYOR AND THE POLICE CHIEF TO APPLY FOR GRANT FUNDING THROUGH THE US DEPARTMENT OF JUSTICE, OFFICE OF COMMUNITY ORIENTED POLICING SERVICES (COPS); AND FOR OTHER PURPOSES**

**RESOLUTION NO. 57 OF 2021**

**A RESOLUTION AMENDING THE 2021 BUDGET BY INCREASING THE EXPENDITURES FOR THE UPGRADE OF IT IN THE POLICE DEPARTMENT; AND FOR OTHER PURPOSES**

**RESOLUTION NO. 58 OF 2021**

**A RESOLUTION AMENDING THE 2021 BUDGET AND APPROPRIATING FUNDS FOR THE PURPOSE OF INFRASTRUCTURE IMPROVEMENTS FOR ECONOMIC DEVELOPMENT PURPOSES; AND FOR OTHER PURPOSES**

**RESOLUTION NO. 59 OF 2021**

**A RESOLUTION AUTHORIZING THE CITY TO ENTER INTO A CONTRACT WITH BACKDRAFT OPCO LLC FOR THE USE OF THE NATIONAL FIRE INCIDENT REPORTING SYSTEM; AND FOR OTHER PURPOSES**

**2. PARKS COMMITTEE Council Member Hart**

**ORDINANCE NO. 34 OF 2021**

**AN ORDINANCE AUTHORIZING THE ISSUANCE OF A PROMISSORY NOTE TO PROVIDE SHORT-TERM FINANCING UNDER AMENDMENT NO. 78 TO THE ARKANSAS CONSTITUTION FOR THE ACQUISITION AND INSTALLATION OF LIGHTING AND RELATED EQUIPMENT AT TYNDALL PARK; PROVIDING FOR THE PAYMENT OF THE PRINCIPAL OF, AND INTEREST ON, THE NOTE; DESIGNATING THE NOTE AS A QUALIFIED TAX EXEMPT OBLIGATION; AND PRESCRIBING OTHER MATTERS PERTAINING THERETO; DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES**

**RESOLUTION NO. 60 OF 2021**

**A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AN AGREEMENT WITH THE BENTON SCHOOL DISTRICT FOR THE OPERATION OF THE HIGH SCHOOL SWIM TEAM AT RIVERSIDE PARK; AND FOR OTHER PURPOSES**

**RESOLUTION NO. 61 OF 2021**

**A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AN AGREEMENT WITH THE BENTON SCHOOL DISTRICT FOR THE OPERATION OF THE HIGH SCHOOL TENNIS TEAM AT TYNDALL PARK; AND FOR OTHER PURPOSES**

**RESOLUTION NO. 62 OF 2021**

**A RESOLUTION AUTHORIZING THE CITY TO ENTER INTO A CONTRACT WITH CARL WEST FOR THE PROVISION OF CERTAIN RECREATIONAL SERVICES TO THE CITIZENS OF BENTON; AND FOR OTHER PURPOSES**

**RESOLUTION NO. 63 OF 2021**

**A RESOLUTION AUTHORIZING THE CITY TO APPLY FOR A GRANT WITH THE INTERNATIONAL MOUNTAIN BICYCLING ASSOCIATION FOR A MOUNTAIN BIKE PARK DESIGN; AND FOR OTHER PURPOSES**

3. **COMMUNITY SERVICE/  
ANIMAL CONTROL** Council Member Reed
4. **STREET & DRAINAGE COMMITTEE** Council Member Hamm  
**ORDINANCE NO. 35 OF 2021**  
**AN ORDINANCE VACATING AND CLOSING DALE AVENUE IN THE CITY OF BENTON; AND FOR OTHER PURPOSES**
5. **PERSONNEL/HEALTH &  
SAFETY COMMITTEE** Council Member Donnor  
**ORDINANCE NO. 36 OF 2021**  
**AN ORDINANCE TO CREATE THE POSITION OF ASSISTANT DIRECTOR OF STREETS, AND FOR OTHER PURPOSES**
6. **PUBLIC UTILITIES COMMISSION** Council Member Lee  
**ORDINANCE NO. 37 OF 2021**  
**AN ORDINANCE AMENDING ORDINANCE NO. 60 OF 2019 NET METERING RULES FOR BENTON UTILITIES ELECTRIC DEPARTMENT; DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES**
7. **A&P COMMISSION** Council Members Lee & Brown
8. **IT COMMITTEE** Council Member Brown
9. **P&Z COMMISSION** Council Member Freeman  
**ORDINANCE NO. 38 OF 2021**  
**AN ORDINANCE REZONING 603 N. MARKET STREET IN THE CITY OF BENTON, SALINE COUNTY ARKANSAS FROM C1 NEIGHBORHOOD COMMERCIAL TO TC2 TOWN CENTER ZONE; AND FOR OTHER PURPOSES**

- IX. **Old Business**
- X. **Public Comments**
- XI. **Adjourn**

**MINUTES OF THE BENTON CITY COUNCIL**  
**Regular Session**  
**May 24, 2021**  
**Benton Municipal Complex**

**The Benton City Council was called to order at 6:00 p.m.**

**The Mayor gave the invocation.**

**Council Member Donnor led the pledge of allegiance.**

**Roll was called.**

**The following persons were in attendance:**

**Council Member Frank Baptist  
Council Member Robin Freeman  
Council Member Bill Donnor  
Council Member Judd Hart  
Council Member Steve Lee  
Baxter Drennon, City Attorney  
Tom Farmer, Mayor**

**Council Member Steve Brown  
Council Member Evelyn Reed  
Council Member Jeff Morrow  
Council Member Shane Knight  
Council Member Jeff Hamm  
Cindy Stracener, City Clerk**

**When roll was called ten (10) council members were present. A quorum was declared.**

**Council Member Hart made a motion to approve the April 26, 2021, council meeting minutes. Seconded by Council Member Knight. The Mayor called for a voice vote. All council members voted in the affirmative. The minutes were approved with 10 affirmative votes.**

**Council Member Reed made a motion for the third reading and adoption of Ordinance 11 of 2021 - An Ordinance Amending Ordinance 46 of 2005, as Amended by Ordinance 50 of 2011; Establishing a One and One-Half Percent (1.50%) Tax Upon the Gross Receipts or Proceeds of Hotels, Motels, Restaurants, Cafes, Cafeterias, and Similar Businesses in the City of Benton, Arkansas for Advertising and Promoting the City; and for Other Purposes. Seconded by Council Member Hart. The ordinance was read by the city clerk. The Mayor stated that 4 public hearings were held. The Mayor asked for any comments concerning this ordinance. Damon Helton, Ward 3 stated that you just give us 3 minutes to speak or refute anything said or read. You have seen me come up over the last several public hearings and speak out against this. It is really hard for us to compress everything we have to say in three minutes when we have to digest 20 minutes of what you have said to us in a proposal. I am going to try and compress this the best I can. When this was given to the people it was billed and set to sunset. The people obviously made a good decision because of the success of the Event Center. But let's not forget that it was the people's decision. I would encourage each of you to remember that it was the people's decision. Leave it to the citizens of this community to make our decision for a tax that is to continue for 20 years. For those on the council when this was voted on, it was sold to your constituents as a tax that would sunset. They voted for it to sunset and it should be the peoples decision. This is your opportunity as a city council to let people trust their government. It was sold as a tax that would sunset, give us the opportunity to vote on it. If you trust your constituents let them, make the right decision.**

Barbara Elrod, Ward 3 stated that she was not against the tax, I educated myself on the tax when I first came in here. I realize that the tax is about as fair as it can be. If you don't go out and eat or stay in a hotel you don't have to pay it. But since the citizens expected this to sunset and the council let them do that, then that is what we need to do. It doesn't mean that you can't come back and put it in front of the voters again to have them vote on something specific. Having twelve projects is just way too many. You need to narrow it down just like the Benton Event Center. I think the Benton Event Center is a wonderful place and has been a good use of the taxpayer's dollars, but you need to let it sunset like you said that you would and be honest and trustworthy and then if you want to get another project going continue the tax with something else that the citizens can vote on.

Lori Morrella stated that she moved from Niagara Falls and I saw it go from 100,000 people to 50,000 people. Now there are boarded up buildings, closed factories and now nothing because no one wanted to invest in the tourism. But Canada did, so now when they come to Niagara Falls, they go across the bridge to Canada's side. So, Niagara Falls lost everything because they did not put any money into the city. You have a great place here, Benton is wonderful, I have been here since 2004. It needs more stuff for tourism, we need more stuff to bring people in. The tax is small, you don't even know you are paying it. I think you should make the decision to keep it going, 20 years is nothing. You could have so much built here.

Shane Broadway, President of the Board of Directors of the Saline County Economic Development Corporation stated the General Assembly gave this body the ability to make the decision and voting for this ordinance will have a tremendous impact for our community going forward and on economic development. I am not a citizen of Benton, and I paid the tax Friday night when I ate downtown. The state championships were held this past weekend over at the Benton Athletic Complex. Teams from all over the state came into to Benton, I saw the Hoxie soft ball team eating in a restaurant in downtown Benton. They were paying this tax. One of the biggest things I see coming out of this pandemic is economic development. More and more people are going to have the option to choose where they are going to work. They are not going to go to a location but work remotely. They will be looking for things for their families to have and to do. The workplace is going to change and the companies that we work with in terms of economic development, it used to be all about workforce and that still is an issue, but the new technical center is addressing that issue. The number two issue is quality of life. The next generation is looking for those amenities that are going to draw them. What do we need to do to keep our graduates here and not go to NWA, or Austin or Nashville? You have an opportunity to lay that foundation. This city has already done great work, Event Center, Riverside Park, the Athletic Complex but we need to keep that momentum going forward, we have to keep pace. You have opportunity to create an opportunity for years to come for those families who are looking for a place to relocate so why not Benton.

Ken Yang stated that the facts and numbers are the most important. It is a false premise to say we would fail if we didn't have this tax. Other states, counties and cities are just as successful. There is a reason people are crossing Arkansas and going to Texas, Tennessee, Louisiana to do business because Arkansas has the third highest sales tax rate in the nation. I keep hearing, it is only 1.5%. I don't like it and I know the people don't like it when you stick your hand in their pockets and say it is only 1.5%. It is 12.875% in taxes to stay in a hotel. You are also passing a tax that will be spent by a commission. You are elected by the people;

the A&P Commission is not. Why would you want to pass something that takes the power out of your hands? You should be in charge of that. I encourage you to let the people vote. I have a great date May 24, 2022, the day of primaries here in the state. Let the people vote and then you won't even have to have a special election. Winston Churchill said, "Can a people tax themselves into prosperity, can a man stand in a bucket and lift himself by the handle?"

Terry Benham stated that it was also the people's decision to give you the power to make this vote. They also did it when they elected you to serve. They empowered you to make these kind of decisions. I not only represent my family, but 200 families connected to youth sports, and I know what they think. We are excited that you might pass it so we can have an opportunity for some things that will attract tourism. Quality of life is number 2 and the marketplace is changing. I trust you to make this decision, but it is a very important decision. I am a soccer guy; I am missing my son's senior banquet because this issue is that important. It is important that we invest in ourselves. I hate taxes, I pay a lot of taxes, but this is an investment and that is the way it was sold to the people. I was apart of the bond issue that is exactly what we communicated to the people. The bottom line is this is an investment. If not for this tax, we would not have created two key parts of our community that put us on the map. And for us over then next 20 years to have those same opportunities, we have to have this tax because that is what helps fund it. Think about the goodness of the community.

Jonathan Wind stated that he was a business owner who collects and pays the tax. These ideas are great, and I am excited about them, but the people voted. You trusted them to vote for the Event Center and they said yes. What are you afraid of? I hear investment, it is a political spin to call it an investment, when someone is reaching in your pocket taking your money. Trust the people, they voted you in. We trusted you, trust us. I am not opposed to the tax, just that people need to decide. 20 years is long time without asking us. Respect the people enough to take it back to them and say this is what we want to do. Trust them to make the right decision, you trusted them before why not now.

Damon Helton stated that he did not take his three minutes and want to refute what was said. Everybody says this is not a tax, but it is. We hear 200 soccer people but what about the 38,000 who vote. The Mayor stated that there are only 20,000 that vote. Mr. Helton disagreed. Mr. Drennon told Mr. Helton that this was not a debate. Mr. Helton said it was. The Mayor stated that this was public comments. Mr. Helton said this was a public debate. The Mayor stated this was not a debate. Mr. Helton said it should be.

Tom Hanson stated essentially the decision to be made is whether to extend what was initially passed. What is proposed can be put on the ballot next spring and voted on by the citizens. I would like to see a temporary tax be just that and let the sun set on it. Show that a tax can end. Put it out there for whatever amount for specific things. Do the right thing.

Shane Pigue stated that he was here on behalf of the A&P Commission. The Wally Hall Tournament was started again because of the A&P tax. I hope it passes.

Billy Coate, Ward 3 stated that the people voted on it to sunset so you should go with what the people wanted and let it sunset. If you want to bring it up again then put it up for a vote. Be fair to the people you gave them your word that it would sunset. Don't go back on your word.

**Council Member Morrow thanked everyone who came out to the three town hall meetings. I have met many of my constituents for and against this ordinance. I can give you a lot of reasons to vote for this, the momentum, the economic viability of this community. I grew up in a town that has dried up. However, the sunset promise that was made, the vote of the people is sacred and in that vein, I have changed my mind on this. I ask the Mayor and the council to hit the pause button and reconsider the process. It feels like we are being rushed and we really don't have to be. I would like for us to coalesce around one idea and follow the Benton Event Center formula. Think about how many projects that the Benton voters have given us over the last few years. If we take this action tonight, we will have violated that trust. What is the problem with a good old fashion election? Let's find an idea and put it in front of the voters and continue that trust with the voters. I am for this tax and for the projects, but I think we need to define it, explain our position better and listen to our constituents.**

**Council Member Hart stated that the plan is there, we are following the plan of the Event Center, the citizens did vote, the council did vote on an A&P tax, the citizens did vote on projects. The tax on the Event Center will expire. We have different projects that we would like to fund, when we go for a bond, the citizens will have the exact same thing as the Event Center and the exact same thing as on Riverside Park. The citizens will express their opinion on what they want to do, just like they did on the Event Center. We happen to have more projects, but the citizens will have their say. The tax was put in effect in 2005 and then later they came for a bond issue and the citizens at that point had a chance to have their say. We are following that same model and doing the exact same thing. We are continuing the progress that we have seen that this tax can have.**

**Council Member Lee stated he was on the council when we did the Event Center. I did tell people that it would sunset. I am going to have to vote no because I told the people that I would do something so I have to vote no, or I will be making myself out to be a liar. If the vote for the Event Center was no, then the council was going to do away with the A&P tax. When the people voted that told me they wanted this tax. It is not that the people are against the tax. It is the difference between telling and asking. That is the issue here. My vote is going to be no.**

**Council Member Donnor stated that he was on the council in 2011 when we did the Event Center and we did make a promise, vote for the tax and it will expire when the Event Center is paid off. The A&P Commission has done a standup job by paying off the bond debt on the Event Center six years early. They have saved over \$1 million of our money, so we have a good A&P system. I have to do what I said in 2011, let the tax expire and hopefully get together and find another project that we can all get behind. I am going to vote no.**

**The Mayor asked that the roll be called. Roll was called which resulted in Council Member Baptist yes, Council Member Brown yes, Council Member Freeman no, Council Member Reed yes, Council Member Donnor no, Council Member Morrow no, Council Member Hart yes, Council Member Knight no, Council Member Lee no, and Council Member Hamm yes. The vote was tied, 5 affirmative and 5 negative votes. The Mayor stated that he was elected to make tough decision and his vote is yes. Ordinance 11 of 2021 was approved.**

**Council Member Knight was recognized for new business. Council Member Knight made a motion to read and adopt Resolution 48 of 2021 – A Resolution Authorizing the City to Enter**

into a Contract with Everbridge for the Purchase of a Contract with Everbridge for the Purchase of a Communication System to Reach the Citizens of Benton at a Cost of \$8,000; and For Other Purposes. Seconded by Council Member Reed. The Mayor stated that one thing that came out of the public hearings was that we needed better communications. This will allow us to text, sent voicemail and email. The Mayor asked for any comments. Barbara Elrod asked if it is an opt in. The Mayor stated yes. The resolution was read by the city clerk. The Mayor asked that the roll be called. Roll was called which resulted in Council Member Baptist yes, Council Member Brown yes, Council Member Freeman yes, Council Member Reed yes, Council Member Donnor yes, Council Member Morrow yes, Council Member Hart yes, Council Member Knight yes, Council Member Lee yes, and Council Member Hamm yes. Resolution 48 of 2021 was adopted with 10 affirmative votes.

The next item on the agenda was committee reports and motions. Council Member Morrow was recognized for a report from the Finance Committee. Council Member Morrow made a motion to read and adopt by title only Resolution 49 of 2021 – A Resolution Authorizing the City to Enter into a Contract with Saline County Career Technical Campus for the Placement of One School Resource Officer Within the District for a Five-Year Period; Beginning with the 2021-2022 School Year; and For Other Purposes. Seconded by Council Member Reed. The resolution was read by title only. The Mayor stated that this was for the CTE Center a resource officer. It is a five-year contract, the first year they had not budgeted for an officer, so they proposed we give them an officer the first year and they make it up in salary over the next four years. Scotty Hodges said at 70%. Roll was called which resulted in Council Member Baptist yes, Council Member Brown yes, Council Member Freeman yes, Council Member Reed yes, Council Member Donnor yes, Council Member Morrow yes, Council Member Hart yes, Council Member Knight yes, Council Member Lee yes, and Council Member Hamm yes. Resolution 49 of 2021 was adopted with 10 affirmative votes.

Council Member Morrow made a motion to read and adopt by title only Resolution 50 of 2021 – A Resolution Authorizing the City to Enter into a Contract with the Benton School District for the Placement of Seven School Resource Officers Within the District; and For Other Purposes. Seconded by Council Member Reed. The resolution was read by title only. The Mayor asked for any comments. A citizen asked if this was an increase. The Mayor stated no, it is same as we previously had. Roll was called which resulted in Council Member Baptist yes, Council Member Brown yes, Council Member Freeman yes, Council Member Reed yes, Council Member Donnor yes, Council Member Morrow yes, Council Member Hart yes, Council Member Knight yes, Council Member Lee yes, and Council Member Hamm yes. Resolution 50 of 2021 was adopted with 10 affirmative votes.

Council Member Hart was recognized for a report from the Parks Committee. Council Member Hart made a motion to read and adopt Resolution 51 of 2021 – A Resolution Expressing the Willingness of the City of Benton To Utilize Federal Aid Transportation Alternatives Program Funds. Seconded by Council Member Freeman. The resolution was read by the city clerk. The Mayor asked for any comments, none. Roll was called which resulted in Council Member Baptist yes, Council Member Brown yes, Council Member Freeman yes, Council Member Reed yes, Council Member Donnor yes, Council Member Morrow yes, Council Member Hart yes, Council Member Knight yes, Council Member Lee yes, and Council Member Hamm yes. Resolution 51 of 2021 was adopted with 10 affirmative votes.



**Council Member Hart made a motion to read and adopt Resolution 52 of 2021 – A Resolution Expressing the Willingness of the City of Benton to Utilize Federal Aid Recreational Trails Program Funds. Seconded by Council Member Knight. The resolution was read by the city clerk. The Mayor asked for any comments. Barbara Elrod asked how they are different. Council Member Hart stated it was for two different grants. One is for the Benton Parkway and the other is for the Saline River surface trails. It is two different trails that we are applying for. A citizen asked how are these trails different than what you have proposed. The Mayor stated some are the same, but this is just phase 1 of the trail proposal. Council Member Lee stated that you always try to get grant money so that it saves tax dollars. Roll was called which resulted in Council Member Baptist yes, Council Member Brown yes, Council Member Freeman yes, Council Member Reed yes, Council Member Donnor yes, Council Member Morrow yes, Council Member Hart yes, Council Member Knight yes, Council Member Lee yes, and Council Member Hamm yes. Resolution 52 of 2021 was adopted with 10 affirmative votes.**

**Council Member Reed was recognized for a report from the Animal Control Committee. She stated she had nothing tonight.**

**Council Member Hamm was recognized for a report from the Street & Drainage Committee. Council Member Hamm made a motion to read and adopt Ordinance 27 of 2021 – An Ordinance Accepting the Public Streets, Utilities, and Storm Drainage for Maintenance Within Phase 1 Fields at Hurricane Lake; and For Other Purposes. Seconded by Council Member Donnor. The ordinance was read by the city clerk. The Mayor asked for any comments, none. Roll was called which resulted in Council Member Baptist yes, Council Member Brown yes, Council Member Freeman yes, Council Member Reed yes, Council Member Donnor yes, Council Member Morrow yes, Council Member Hart yes, Council Member Knight yes, Council Member Lee yes, and Council Member Hamm yes. Ordinance 27 of 2021 was adopted with 10 affirmative votes.**

**Council Member Hamm made a motion to read and adopt by title only Ordinance 28 of 2021 – An Ordinance Accepting the Public Streets, Utilities, and Storm Drainage for Maintenance Within Phase 4 Richland Hills Subdivision; and for Other Purposes. Seconded by Council Member Lee. Roll was called which resulted in Council Member Baptist yes, Council Member Brown yes, Council Member Freeman yes, Council Member Reed yes, Council Member Donnor yes, Council Member Morrow yes, Council Member Hart yes, Council Member Knight yes, Council Member Lee yes, and Council Member Hamm yes. Motion was approved with 10 affirmative votes to read by title only. The ordinance was read by title only. The Mayor asked for any comments, none. Roll was called which resulted in Council Member Baptist yes, Council Member Brown yes, Council Member Freeman yes, Council Member Reed yes, Council Member Donnor yes, Council Member Morrow yes, Council Member Hart yes, Council Member Knight yes, Council Member Lee yes, and Council Member Hamm yes. Ordinance 28 of 2021 was adopted with 10 affirmative votes**

**Council Member Hamm made a motion to read and adopt Ordinance 29 of 2021 – An Ordinance Accepting the Public Streets, Utilities, and Storm Drainage for Maintenance Within Phase 4C Coldwater Creek Subdivision; and For Other Purposes. Seconded by Council Member Freeman. The ordinance was read by the city clerk. The Mayor asked for**

any comments, none. Roll was called which resulted in Council Member Baptist yes, Council Member Brown yes, Council Member Freeman yes, Council Member Reed yes, Council Member Donnor yes, Council Member Morrow yes, Council Member Hart yes, Council Member Knight yes, Council Member Lee yes, and Council Member Hamm yes. Ordinance 29 of 2021 was adopted with 10 affirmative votes.

Council Member Hamm made a motion to read and adopt Resolution 53 of 2021 – A Resolution Calling a Public Hearing to Hear the Petition of Benton Utilities to Abandon a Street Located on Dale Street Inside the City of Benton; Calling for a Public Notice of the Hearing; and For Other Purposes. Seconded by Council Member Lee. The resolution was read by the city clerk. The Mayor asked for any comments. A citizen asked what is a street on a street. Mr. Vondran, PUC Director stated that that for clarification, it is for Dale Ave. we also have a Dale Street in Benton. It was the street in front of the Benton Utilities office. We have recently purchased the property on the other side of the street. There is now nothing at the end of street that is open for public access. It is to protect our assets, to protect our equipment and to provide some security to the property at the end of the street. Council Member Knight made a motion to amend Resolution 53 of 2021 to reflect Dale Ave. rather than Dale Street. Seconded by Council Member Morrow. Roll was called which resulted in Council Member Baptist yes, Council Member Brown yes, Council Member Freeman yes, Council Member Reed yes, Council Member Donnor yes, Council Member Morrow yes, Council Member Hart yes, Council Member Knight yes, Council Member Lee yes, and Council Member Hamm yes. Motion to amend was approved with 10 affirmative votes. The Mayor asked that the roll be called for Resolution 53 of 2021 as amended. Roll was called which resulted in Council Member Baptist yes, Council Member Brown yes, Council Member Freeman yes, Council Member Reed yes, Council Member Donnor yes, Council Member Morrow yes, Council Member Hart yes, Council Member Knight yes, Council Member Lee yes, and Council Member Hamm yes. Resolution 53 of 2021 as amended was adopted with 10 affirmative votes.

Council Member Donnor was recognized for a report from the Personnel/Health & Safety Committee. Council Member Donnor made a motion to read and adopt Resolution 54 of 2021 – A Resolution Authorizing the City to Enter into Settlement Agreements with Dennis Mitchell and Ernest Coppock Arising from Overpayments Associated with Their Retirement; and For Other Purposes. Seconded by Council Member Reed. The resolution was read by the city clerk. The Mayor asked for any comments. A citizen asked if regulations were in place so that this does not happen again. The Mayor stated yes. Can't say won't happen everyone makes mistakes. Another citizen asked are they not paid their full amount. Baxter Drennon stated no, under Arkansas law there is a limit on the amount they can be paid for. The maximum is 4 ½ months the city has the option to do 3 months and by city ordinance they are paid for 3 months of leave. The Mayor asked that roll be called. Roll was called which resulted in Council Member Baptist yes, Council Member Brown yes, Council Member Freeman yes, Council Member Reed yes, Council Member Donnor yes, Council Member Morrow yes, Council Member Hart yes, Council Member Knight yes, Council Member Lee yes, and Council Member Hamm yes. Resolution 54 of 2021 was adopted with 10 affirmative votes.

Council Member Lee was recognized for a report from the Public Utility Commission. He stated they had the minutes from last meeting and could be read at your leisure. See attached.

**Council Member Brown was recognized for a report from the A&P Commission. He presented the minutes from the last commission meeting. See attached.**

**Council Member Brown was recognized for a report from the IT Committee. He gave that report. See attached.**

**Council Member Freeman was recognized for a report from the Planning and Zoning Commission. She stated that a regular meeting was not held but a special called meeting was held. See attached report.**

**The Mayor asked for any old business. None. The Mayor asked for public comments. Jason Brown, Bryant Chamber of Commerce and RJ Hawk, Bryant Council Member invited the council members to an event on June 18<sup>th</sup> for a private air show. Wings Over Bryant will be held the next day. The Mayor stated that committee meeting will be the second week of June. July 2<sup>nd</sup> is our 4<sup>th</sup> of July event. The next council meeting will be June 28, 2021. The Mayor thanked everyone and stated he appreciated each one standing up and voting what they believe in and voted their heart and what was best for the citizens. Council Member Reed stated that CADC would be distributing frozen meat on May 26, 2021.**

**Council Member Brown stated that he wanted to express his gratitude to the aldermen for voting their conscience tonight. He expressed his gratitude to each one who participated in the public meeting and those expressing their opinion leading up to the vote. I want to encourage us all to support the decision the best you can so we can as a city come together and make this as successful as possible. The Mayor stated a focus group would be formed with 10 citizens. We need to get together and move forward. Council Member Lee stated it did not go the way I expected or wanted but it went, it is done. I think personally that it is a great tax, there are a number of fine projects that can be done to make Benton better. Our grandkids and great grandkids will use the facilities. It is about everyone and to make it better. We can't go backwards; we need to go forward. This is an excellent way to do that.**

**The meeting adjourned at 7:19 p.m.**

---

**Cindy Stracener, City Clerk**

---

**Tom Farmer, Mayor**

CITY OF BENTON UTILITY COMMISSIONERS MEETING  
MONDAY, MAY 17, 2021, 6:00 P.M.,  
ELECTRIC UTILITY BUILDING  
1827 DALE AVENUE

The City of Benton Utility Commissioners met in regular session Monday, May 17, 2021 at the Electric Utility Building, 1827 Dale Avenue.

In Attendance:

Doug Stracener, Chairman  
Charlie Best, Member  
Jim Martin, Member  
Gary Ferrell, Member  
Jerry Ponder, Member  
David Vondran, General Manager

Chairman Stracener called the meeting to order. Member Martin gave the invocation and Chairman Stracener led the Pledge of Allegiance.

The first item of business was approval of the minutes from the regular meeting of April 19, 2021. Member Martin made a motion to approve the minutes as presented and Member Ferrell seconded the motion. A vote was taken, and unanimous approval given.

**Departmental Reports**

A. April Financials

Karen Scott

Mrs. Scott said the April financial report on the first page is the spreadsheet that shows the current month revenues year to date and then a comparison to 2020. The current month revenues of \$2,735,000 over expenditures of \$2,683,000 resulted in a net income of \$51,362. In this month last year, that is April of 2020 we had an income of \$324,824 so the difference is a deficit of \$273,000. Year to date we are still \$166,000 higher, revenues over expenditures than last year. All revenues were slightly higher this April versus last year, there were a couple of significant differences on the expenditure side. Wholesale power was up slightly, on the electric distribution budget we had an expenditure for the fiber mapping project that we have entered into and also, electric distribution has been hard at work putting in a bunch of service for new subdivisions. We had some significant expenditures relating to that. In water purification their expenditures look a little odd, \$60,000 for the whole month but we actually reclassified some expenditures that had been charged to expense back to construction work in progress for the pipe gallery project. While that is still a cash outlay it does reflect differently on the profits and

losses when moved to the balance sheet. Then, in the wastewater collection department you will see that they had pretty high expenditures month after month and we had \$226,000 that we paid Heller Company in April of 2021. That was just some highlights of the differences that jump out at you. On page 7, the Bad Debt Analysis, in April we wrote off \$15,000 and collected \$13,000 which was way better than last month. The year-to-date net is still \$97,000 total written off with \$27,000 recovered for a loss of \$70,000. This time last year that loss was \$18,000 and so that difference is about a \$51,000 position that we are worse off this year. The DPA (deferred payment agreement) are down to \$60,000 and as you know they were significant at the start of the year. We are happy about that and what we found as I talked about last month is those people that left. We are discovering them and they are long gone and in some cases someone else moved in and the said oh great the utilities are turned on and we didn't even know that someone new lived there. But we are continuing to work with our customers and continuing to help them to help themselves. On page 13, that is the recap of the revenues over expenditures for the system. Electric has a profit of \$269,000, water a loss of \$63,000 and wastewater a loss of \$154,000. Again, for all services total \$51,362.48 for the month of April. Member Ferrell said that he had a question on the bad debt. We started out pretty high at the first of the year and are you saying a lot of that is now gone? Mrs. Scott said do you mean bad debt as in written off accounts or customers that owe us money? Member Ferrell said customers that owe us money. Mrs. Scott said yes, that is down to \$60,000. Member Ponder asked Mrs. Scott where that started out, in a round number. Mrs. Scott said she thought that it was around \$375,000. Mr. Vondran said he didn't know about the DPA's but the total account balance got up to \$580,000. Mrs. Scott said they have noticed since people have gotten stimulus payments and tax refunds; they have made efforts to pay their bills if they are still here. Member Ferrell asked if they would be looking to clean that up in the next few months and Mrs. Scott said well, yes, when they get to a certain age is when we write them off. Mr. Vondran reminded the commissioners that the DPA's were only for 6 months. Mrs. Scott said that was correct and there is still a couple of months to go, most of them were entered into around December 1<sup>st</sup>. Mr. Vondran asked the chairman to recognize Mr. Jason Carter of Carter Law Firm so that he could give them some news that will benefit the utilities. Mr. Carter said this is hot off of the presses. As of last week, there is a program that has been launched that is federally funded. It is the Arkansas Rental Relief Program. The reason the Federal Government released this program is as you know evictions have been stopped in many areas. If a landlord gets federal funds to pay for rental property, they have not been allowed to evict their tenants, they are just going in the hole over and over again. In a lot of areas in the country utilities cannot be cut

off and the utilities are just going in the hole. They all know that this is coming to an end and there is all of this backlog of debt that these people owe and everybody is about to get turned off. The Federal Government's answer for that is money, throw lots of money at it. The money for the Arkansas Rent Relief Program is being administered through DHS (Department of Health and Human Services). They have to be renters; they cannot be property owners to apply for it. If they meet income qualifications, they will get their rent paid, and this dates all the way back to March or April of last year and all the way coming forward until December of this year. It is a payment program that pays rent, it pays electric, it pays water and it pays wastewater. They will certify how much they owe through the online portal and then DHS pays the utility directly. Even if they don't ask for rent payments, as long as they are a tenant, they can say hey, I have paid my rent all along but I haven't paid these guys and I don't have the money to pay them. Mrs. Scott asked if it had to be a past due amount. Mr. Carter said it is past due, it has to be owed right as long as it's owed then they will qualify for the payment on it as long as they meet income requirements. The push that DHS is making Deloitte is helping them run that program they're trying to get utilities to have a kiosk help people get the word out though they got bill flyers things to put in with bills and everything else to try to get the word out to get people to go online. Because I'm telling you it's a huge bucket of money. Member Ferrell said the notification ends June 30<sup>th</sup>. Mr. Carter said he thinks it's pretty imminent and that's why the money is hidden and they are trying to shove it out the door. Mrs. Scott said she wondered if they couldn't reach out to the people who have DPA's and say hey do you know you can apply and get this money and then in general reach out to all of our customers. Member Ponder asked if they could be treated as due even if we had already written it off. Mr. Carter said he would write it off. Mrs. Scott said the problem is the people that we have written off are not our current customers. Mr. Carter said if it has been submitted as a matter of controversy or something like that you're show already there if it's in collections or something like that I don't think that you can collect on it. It's like your customer base may be gone but you could write them a letter and go hey by the way if you don't have the money to pay this you can sign up for here and they have to have been a tenant you know but they can sign up for it and maybe get the money I don't know. Mrs. Scott said people who flee are generally tenants and Mr. Carter said unfortunately to they probably won't open their mail. Member Ferrell made a motion to accept the financials as presented and Member Best seconded the motion. A vote was taken and unanimous approval given.

Mrs. Scott said the audited financial statements are in the bound gray booklet. I always like to point out that the very front is what is called the management's discussion analysis and it's meant to be a summary of the year's activities from a financial standpoint for the reader of the financial statements. If they don't want to get into the guts of everything. It is just a high-level thing. One thing that is important to know is on page 2, the top part, condensed statements of net position. The total net position increased by \$7.494 million dollars. That's technically kind of our net income for the year. A lot of audit entries get made back and forth we reclass things and we and then I actually make word some reversing entries so I would just like to point that out. Last year that number was 8.693 so we're slightly worse off in 2020 but, of course still we can pay our bills and we're thankful for that. Then if you go to the independent auditor's report that's on page 5 at the bottom opinion, in our opinion the financial statements referred to above present fairly in all material aspects of the financial position of Benton Municipal Light and Waterworks. The city of Benton state of Arkansas as of December 30<sup>th</sup>, 31st and the changes in financial position cash flows that are out for the years that ended in accordance with accounting principles generally accepted the United States. That is a lot of words to say these are financial statements that are accurate and reflect the financial position of the utilities. Then of course all in through here is a lot of information in the notes, the notes are required and there generally only used for people that really care about the details, such as capital assets, bonds, and outstanding pension discussion. The note 6 on the retirement plan all of those numbers are now required not only to be here but then we have some items on the balance sheet that are reflected from here. There's a lot of information here the schedules and year over year information. I will say the audit went well this is the first year Mr. Scott Lovell did not participate at all in the audit. Mr. Nathan McLaughlin was lead, by himself and had a had somebody helping him that was new and so we had we had to train **Cody** a little bit on our operations and that it went you know well. I thank always of course any of the staff who were involved in any phone call that I said hey the auditors need this and so it went well and I'm pleased to present these audited financial statements to all of you. They have already been filed with Emma and ANRC. Our loan with an ANRC actually requires that their filed by April 30th with them 120 days after the close of business which is actually pretty short. I don't know how some of these people are meeting that requirement because they get on our audit it's quick. Emma is the place where we have to put them where all anyone who cares about the financial position from a bondholder standpoint or borrower looks at our audited financial statements. They

have also been sent to legislative audit. This is a ton of information should any of you have any questions after tonight feel free to reach out to me. Member Ferrell said now these have to be presented to the City and Mrs. Scott said we did that last year I don't know Member Ferrell that the law requires us to, we've always done it I mean I didn't have any plans not to but. Mr. Vondran said I think it is the actual ordinance that set up the Commission that requires it. Mrs. Scott said, what I did last year was after you all presented the financial statements and said OK great, we sent them over to them and then I guess they accepted them. Mr. Vondran said really, they take no action it's just from informational purposes only. I think when they get to the Public Utilities Commission portion of the agenda the Alderman that is the liaison says they're here tonight to present the audited financials and we present and no action taken accepted for record. Member Ponder made a motion to accept the financials as presented and Member Best seconded the motion. A vote was taken and unanimous approval given.

### **Old Business**

#### **A. Fence Disposal**

David Vondran

Mr. Vondran said Mr. Chairman a quick item for your input your consideration. The Coorstec property that we bought across the street has some chain link fencing down some of the border of the property. It has some cross fencing out in the middle of the property we are looking at reusing some of that over here to help secure our facility out behind the new pole barn that has been built. We can reuse the fabric, some of the fabric, some of the top rail and some of the top post caps. The post that has the concrete around the base are not really reusable but a lot of that has value too an employee. Similar situations have been our used utility poles we've put a minimal price on utility poles a lot of times if they're willing to come take it down and take it then they can have it but it's not really on our books as far as an asset that is quantified. I just wanted some guidance from you if our employees are willing to come dig it up and take it down are they welcome to it? It would assist us there's value in cleaning up the property for any future use and this of course would be in addition to anything that we're going to use in house in another location. Member Ferrell said that he would just recommend that they make a note anytime anyone tries to do that and to be descriptive where you name who it is and put that note somewhere. Mr. Vondran said we do that for our used utility poles just to maintain a record so we can do likewise to make a record. Mrs. Scott said you can pass a motion that allows us to do that. Member Ponder



made a motion to allow the General Manager to allow for the disposal of the surplus materials with the fence at their discretion providing that we keep appropriate listings as we do with prior materials. Member Martin seconded the motion. A vote was taken and unanimous approval given.

#### B.Net-Metering Ordinance

David Vondran

Mr. Vondran said thank you Mr. Chairman you have an email hopefully in front of you then has my name at top of the page. It is some correspondence between Judge Arey and myself, we think we have come to a reasonable conclusion that I support and I bring to you for your consideration. Judge Arey is also in support of it, Mayor Farmer is in support of it, so we seem to have something to actually put on the table for everyone. I will yield the floor to Mr. Carter he will help us bring this into ordinance verbiage so that we can get it before the City Council. The main points of the agreement are as follows if there's a grid charge, the grid charge would be based on any increment above what is already allowed by ordinance. Right now, the ordinance allows a 300-kW unit to be installed so any grid charge for example this 500-kW unit with a grid charge would be applicable to 500 - 300 for the 200-kW increment that is not already allowed by ordinance. That grid charge would be approximated at retail -avoided cost so that would come up with what we pay for distribution and billing and so forth. The second component would be if there is a grid charge the maximum increase for the grid charge after five years would be no greater than the increase in the wholesale power rate for Benton Utilities and that includes transmission so that's all that we're interested in recovering anyway by definition avoided cost. That would include purchase power and transmission so we can fully support that. Under the next paragraph down below the next number 1 the amount of the grid charge does not exceed \$9,501.62 based on the attached helias codesign report. They provided a report to us that states the efficiency of the solar units that they will be installing. That efficiency is 19.3% so you take the kW's of the unit you multiply by 24-hour days 365 days a year and then times 19.3% and that gives you the amount of Kwh's that that unit will be producing effectively in a years' time. That's how you that's how you come up with the \$9,500 roughly now that 19.3% the grid charge with decreased by .5% annually due to the degradation of the solar panels so we're fine as long as we're recovering our cost, we can manipulate that number to affectively represent what the solar panels are putting back on our system. So, we support that second number one and finally the language and number 2 if BU expects to increase the grid charge to charge the net metering customers a cost benefit analysis must be done, taking into account, but not limited to the following net benefits and we can make that a part of our biannual cost of service

study by resolution. We have authority to set a resolution with the City Council every year to determine our avoided cost so we can just make this part of our bi-annual cost of service study so that we can take into account the contribution of these demand metered customers and what their demand charges represent versus what a grid chart would represent. We are fully supportive of all these criteria and Mr. Carter will work his magic to get it into ordinance language. Mrs. Scott said the grid charge doesn't start until the solar unit went online, right? Chairman Stracener asked what the approximate time would be and Mr. Vondran said they haven't discussed that because there's a water line in the way. Chairman Stracener said I guess they want us to move that and Mr. Vondran said separate issue. Member Ferrell asked what happened after 20 years? Mr. Vondran said after 20 years, the county will actually own this facility so normally there's a 20-year PPA, purchase power agreement because the energy recipient is normally not the owner so that the solar provider can get the tax credits but in this case the County is going to own the facility. Member Ferrell said so we will have no grid charge in 20 years? Mr. Vondran said as it's written, correct, that should be the life cycle of the units. Member Ponder said so when the unit has to be replaced by some definition you would have to come back and do a different agreement? Mr. Vondran said Mr. Carter is making a mental note of how to incorporate that into the ordinance. Mr. Carter said I'm not seeing the 20-year limitation. Member Ferrell said well it's a .5% degradation annually 20 years would be 0. Mr. Carter said no it is not 5%, it .5% annually. We are saying 200 years. Member Ferrell said we know that it is not going to last that long. Mr. Carter said right so the facility will degrade at .5% of year that's what the number seemed to turn out with that everybody solar facilities so that's kind of assumed. I think that the \$9,500 is what I think is at least according to my calculations was the difference between your retail rate and avoided cost for that 200-kW block that they overbuilt. I think that's fair and they can build the 300 they can build up to 300 kilowatts they can just do that but is that access that's the troubling part. Member Ferrell so that the end of 20- or 25-years life cycle of the solar panels they have to do a total replacement or we go back to serving them power. Mr. Vondran said the capacity factor of the units are 19.3%, 20% in 40 years it will not be putting out anything if it's a half percent degradation a year and it's only a 20% capacity factor that in 40 years will be 0. They'll either have to put new units back in and it'll go back up to 20% with a .5% degradation. Member Ferrell said it won't last 20 years, will it? Mr. Carter said the inverter certainly won't inverters are going to go out. They are out of their warranty in 15 years. The panels are warrantied if they're running 25 to 28 on the panels but usually those are the new bifacials. Fixed tilt that they're putting on rooftops those aren't bifacials those are the older style panels. They're going to play out at some point their electronic

components I don't know whether they're going to fail so sometimes with these solar rays if they got room, they'll just add on like if you're just out in the big field somewhere then as the panels degrade you can just add on more to the end. I don't think they have room to do that so they will probably just let it run until it just runs out. Member Ponder said it seems that since they are in a warranty type issue, they have to replace the unit or whatever we need to have some sort of language in there as well to start the clock again at that point I'm just trying to wrap my mind around that existing initial installed unit being the only thing that that applies to and if that changes then we doubt we all have an opportunity to go back and take a look. Mr. Carter said I think probably when we're thinking about OK it's a .5% degradation rate that it's reasonable after five years to true that up. To see what you actually produced. The helios scope is giving us the best guess about what we really believe this solar facilities going to produce but we ought to be able to true that up later in case they like let's say in 10 years somebody invent some new cool guy inverter that's super-efficient and all the sudden is putting out a lot more energy than we thought it was going to put out you know and that changes the math on us we should be able to true that up. Member Ferrell said there will be language in there to allow us to do that? Mr. Carter said one thing where they said it was about increasing no greater than the increase in wholesale power, I think what they mean is the difference between an increase in the difference between retail and wholesale that's what we're capturing. It's not a wholesale power component that we're catching it's the gap between wholesale and retail that we're grabbing. Mr. Vondran said which would actually be if wholesale power goes down. Mr. Carter said right or your retail cost goes up, your costs for managing the system goes up. That's what you're trying to make sure that they're paying their fair share of. We may have to explain that to them but it still is the same kind of concept. Chairman Stracener asked when we could see the ordinance and Mr. Carter asked how fast they wanted it. I will get the draft together and get it Mr. Vondran for him to distribute.

## **New Business**

### **A. Sewer Issues**

Tom Hanson

Mr. Vondran said Mr. Hanson asked to be placed on the agenda and he doesn't see him here tonight.

Member Martin asked if could ask a question on sewer. On Southshore what is the status? Did we get that issue resolved and in what way? Mr. Vondran said we installed the can and the pumping system and the homeowner was going to come

back to the Commission to ask for additional services. I think the message was relayed that that was very unlikely and so it seems to have taken care of itself. Mr. Nathan Schultz, Wastewater Collections Manager said we installed the can, the tightline and then he came back and there was another line that came out of the kitchen area that he knew about and didn't tell us. Now there's another line so there are 3 lines coming out of that house. Mr. Chuck Thompson, Inspector went over there and showed him a diagram and he didn't want to hire a plumber. Since he's a homeowner he could do the work. Today we failed it so he's going to have to redo it. The can and everything is working I was going around the house there's like 3 lines. Mr. Vondran said it seems to be that even the grey water from the kitchen was separated from the black water from the restrooms. Member Best said we have done what we said we would do and Mr. Vondran said we have. Mr. Schultz said yes everything is working on our part.

Chairman Stracener asked Member Martin if he had any other questions and he said yes. What about the Summerwood guy did we get that water issue resolved? Mrs. Scott said yes, they did, actually that had been resolved that day. We adjusted his bill to his liking but he agreed to pay the adjusted bill and he's paid it. Mr. Vondran said not to his satisfaction but to his willingness to compromise. Mrs. Scott said well he was not truthful when he came to you all. He said that we had a guy go out there that didn't was doing and when they went out there, he asked them not to turn the water off because he had children in the house. That is why that water was left on for another day. I think once he got the final number of the amount of the adjustment and combined with the fact that he was 100% truthful with you all that's probably why he didn't come back. Chairman Stracener said there is always more to the story. Member Martin asked if we verified whether or not the billing Department ever sent him a notice? Mrs. Scott said him they did send him a high usage notice.

### **Announcements**

A. Next Commission Meeting Date: June 7, 2021

Member Martin asked for an executive session.

### **Executive Session**

Member Martin made a motion to go into executive session regarding personnel at 6:32 p.m. and Member Ferrell seconded the motion. A vote was taken with unanimous approval given.

The Commission reconvened into regular session at 6:52 p.m. with no decisions made.

Member Ferrell made a motion to adjourn and Member Best seconded the motion. Meeting adjourned at 6:53 p.m.

---

Doug Stracener, Chairman

---

Madeline Wilson, Recording Secretary

# BENTON ADVERTISING & PROMOTION COMMISSION

## Minutes

May 12, 2021

### I. CALL TO ORDER

Chairman Bill Eldridge called the regularly scheduled meeting of the Benton Advertising & Promotion Commission to order on May 12, 2021 at 3:30 pm at the Benton Municipal Complex in Council Chambers.

### II. ROLL CALL

Commissioners in attendance included: Bill Eldridge, Steve Brown, Alison Burch, Elgin Hamner IV, Steve Lee and Luke Moody. Brandi Crabtree was absent.

### III. MINUTES

Steve Brown made a motion to approve the minutes of the April 14, 2021 meeting. Alison Burch seconded. Motion carried.

### IV. FINANCIAL REPORTS

Financial reports were presented by Jordan Woolbright. The A&P Commission bank accounts show the following balances as of April 30, 2021:

Bank OZK – A&P	\$ 109,036.52
Bank OZK – Event Center	\$238,887.18
Bank OZK – Savings	<u>\$455,921.52</u>
Total Checking/Savings	\$803,845.22

A&P profit and loss statements: for the month of April 2021 total income of \$15,167.80 and total expenses of \$8,863.44 resulting in net income of \$6,304.36. For the period of January to April 2021 total income of \$51,208.01 and total expenses of \$32,434.13 resulting in net income of \$18,773.88.

Event Center profit and loss statements: for the month of April 2021 total income of \$40,114.15 and total expenses of \$29,803.84 resulting in net income of \$10,310.31. For the time period of January to April 2021 total income of \$150,657.19 and total expenses of \$102,443.11 resulting in net income of \$48,214.08.

City of Benton Financial Officer Mandy Spicer presented reports showing the total A&P cash accounts as \$1,671,047.49 and A&P bond funds to be \$765,538.20 as of April 30, 2021. Collections received in the month of April 2021 in comparison to April 2020 are approximately 17% higher. There are currently no delinquent accounts.

### V. REPORT FROM BENTON EVENT CENTER

Director Nikki Chumley highlighted several events held in the building since the last meeting, including the State Police troop graduation and the Big Press high school

weightlifting competition. There have been 627,600 attendees at events since the building opened on October 1, 2013.

VI. OLD BUSINESS

Report from Marketing Committee

Alison Burch reported that the marketing committee is creating a list of marketing agencies to contact for initial discussions about services and scope of work.

VII. NEW BUSINESS

Edafio Technology Partners

Nikki Chumley reported that Edafio Technology Partners has conducted a network assessment of the Benton Event Center and recognized Lee Hammers and Zach Green to present the findings and recommendations to the commission. The Network Assessment Findings and Recommendations prepared by Edafio Technology Partners is attached.

Lee stated that Edafio currently serves as the network provider for the City of Benton (including the Benton Event Center) and previously conducted this same network assessment for the City. Lee explained that there are two main parts of the network – switching and wireless access points. The current switching product has gone past end of life/sale/support and poses security risks. The current wireless access point products are typically best suited for small office/home office use. It is the recommendation of Edafio that both the switching and wireless access points be replaced. Lee said all the equipment is original to the building (October 2013).

Two options were presented for the project: perform a full refresh or divide the project into two phases. The cost of each is as follows:

Option 1:	Full refresh	\$40,094.54
Option 2:	Phase 1	\$15,239.59
	Phase 2	<u>\$24,854.95</u>
	Total	\$40,094.54

The only variable in these quotes is the cost of the cabling which is performed by a third party vendor. The cost of the cabling included in the quotes is an approximation. Lee explained there would be less interruptions in doing the full refresh option. The equipment would be warrantied for 3 years and the only delay in getting started would be waiting to receive all the new equipment once it's ordered.

After discussion, Steve Lee made a motion to authorize Edafio Technology Partners to conduct a full refresh of the network system and authorized Nikki to approve any variable in the cost of the cabling performed by a third party vendor. Alison Burch seconded. Motion carried.

Other New Business

Alderman Jeff Hamm was in attendance and encouraged the commissioners to attend the May 17 Town Hall meeting regarding Ordinance 11.

Attendee Barbara Elrod asked what would happen if the A&P tax was not extended. Bill Eldridge explained that once the bonds are paid, the A&P Commission would be dissolved thirty days later.

IIX. FUNDING REQUEST  
None.

IX. ADJOURNMENT  
Luke Moody made a motion to adjourn the meeting. Alison Burch seconded. Motion carried. The meeting was adjourned at 4:05 pm.

---

Bill Eldridge  
Chairman

---

Amy McCormick  
Recording Secretary



# Infrastructure Project Update

<b>Client:</b>	City of Benton			
<b>Project:</b>	Infrastructure Project – Microsoft 365 Migration (SOW #20410192003WW)			
<b>Report as of:</b>	5/17/2021	<b>Started:</b>	10/28/2020	<b>Estimated End:</b> 6/15/2021
<b>Frequency:</b>				
<b>Project Summary</b>				
Migrate City Employee emails from G-suite to Microsoft's 365 email suite and tool sets. Migrate files from on-prem Exchange server to 365's online archive, and migrate existing data to SharePoint.				
<b>Overall Project Status</b>	<b>In progress</b>	<b>Est. % Complete:</b>		<b>80%</b>
<b>Key Milestones / Activities</b>	<b>Est. Start</b>	<b>Est. End</b>	<b>Est. %</b>	<b>Status</b>
Migrate Departments to 365				
Administration				Complete
Mayor's Office				Complete
Community Development				Complete
Animal Control				Complete
Street Department				Complete
Parks & Recreation	4/27	4/28		Complete
BFD	4/29	4/30		Complete
City Council	5/18	5/18		In Progress
Post Migration Activities				
Migrate existing Google Drive Data to OneDrive				
Export all mailboxes on the on-prem Exchange server and import them into the 365 online archive	5/17	5/17		Complete
Begin process of identifying the data owners and doing data hygiene in preparation to migrate that data to SharePoint				

#### Issues/Risks/Actions for Management Attention

- There have been some challenges migrating the BPD's emergency services to the County OEM, due to lack of information Edafio received during the County's pre-planning on how BPD would access CAD, as well as how County offices would access the City's RMS system (i.e. Prosecuting Attorney and Juvenal Division). Edafio continues to work with County IT to remediate these issues, as they are ongoing. \*\*\*UPDATE – We believe this has been resolved. Will Smothers to confirm with users on 5/18.
- BFD users who do not currently have PCs are using Exchange Plan 1 licenses until we receive O365 F3 licenses from Microsoft.
- Working with Microsoft to remediate issues with users sending Teams chats to external users (currently affecting 1/3 of users) – anticipate full resolution by end of May.

#### Accomplishments

- 95% of departments migrated to-date

#### Work Planned

- Complete migration of the City Council member emails on 5/18
- Commence with post-migration activities the week of May 24th
- Soon to arrange user training sessions with City Employees to ensure they are familiar with the O365 tool sets

# Network Refresh Project

<b>Client:</b>	City of Benton			
<b>Project:</b>	Network Refresh – Switches, Firewalls, SD-WAN Connections			
<b>Report as of:</b>	5/17/2021	<b>Started:</b>	10/28/2020	<b>Estimated End:</b> 6/15/2021
<b>Frequency:</b>				
<b>Project Summary</b>				
Replace, and refresh network infrastructure as described in Edafio Quote Number: AV022450 v10, dated 10/28/2020.				
<b>Overall Project Status</b>	<b>In progress</b>	<b>Est. % Complete:</b>		<b>70%</b>
<b>Key Milestones / Activities</b>	<b>Est. Start</b>	<b>Est. End</b>	<b>Est. %</b>	<b>Status</b>
Migrate Sites to New Switch & FWs:				
City Hall MDF	3/26	4/27	100%	Complete
Animal Control	4/13	4/13	100%	Complete
FS1	4/22	4/22	100%	Complete
FS2	4/15	4/15	100%	Complete
FS3	4/19	4/19	100%	Complete
FS4	4/20	4/20	100%	Complete
FS5	4/16	4/16	100%	Complete
Tyndall Park	4/14	4/14	100%	Complete
River Center	TBD	TBD	100%	In progress
Streets/Drainage	4/17	TBD	50%	In Progress
Fiber Installed (by Fidelity) for SD-WAN	3/1	5/28	50%	In progress
SD-WAN Connected & Configured	6/1	6/30		In progress
Police at City Hall	TBD	TBD		New Fortinet FW quote
Police Annex	TBD	TBD		Meraki/switches quoted
Benton Event Center	TBD	TBD		Switch/Wireless quoted

**Issues/Risks/Actions for Management Attention**

- Issue: Per Fidelity, fiber connections will be installed and available for all locations by 5/28/2021; after Fidelity installs fiber at each location, Edafio will connect configure the SD-WAN at each location
- River Center – Discovered Boys & Girls Club and Senior Activities Center's networks run through the city's network. Need to get them off of the city's network before migration.
  - Boys & Girls Club – connection made with point of contact (POC). Quote for Fidelity internet sent to POC. Awaiting response.
  - Senior Activities Center – no response from point of contact, to-date.
- Streets/Drainage – streets dept has multiple legs back to City Hall. Need to redesign their connection back to City Hall before migration.

**Accomplishments**

- New switches and firewalls completed for Animal Control, Fire Stations 1-5, Tyndall Park, Streets/Drainage
- New switches and firewall for City Hall completed
- PD Cable boxes installed

**Work Planned**

- Benton Event Center Project – approval, order, install
- Separate B&G Club and Senior Activities Center from City network
- SD-WAN project (pending completion of Fidelity work)

## Planning Commission Report to the City Council

May 24, 2021

The Planning Commission held a special called meeting on May 17<sup>th</sup> at 5 pm by Zoom. After establishing a quorum the Planning Commission took the following actions:

- Approved the final plat of White Oak Manor Subdivision. The property is owned by Fait Road Forty LLC and is in the city's 1-mile extra-territorial jurisdiction (ETJ). All requirements for the development have been met in accordance with City Ordinance.

Submitted by Robin R. Freeman

**ORDINANCE NO. 30 OF 2021**

**AN ORDINANCE AUTHORIZING AN INCREASE FOR THE  
LOCAL FIRE PENSION THAT CONSOLIDATED INTO LOPFI;  
AND FOR OTHER PURPOSES**

**WHEREAS**, the City Council of the City of Benton, Arkansas, approved an actuarial valuation of the Local Fire Pension plan that was consolidated into LOPFI in 2020 with increases of \$200 per month for paid service participants and \$50 per month for volunteer participants; and

**WHEREAS**, the results of the actuarial valuation detailed that the paid service rate did not change from the 2021 established rate due to mortality improvements since the date of the consolidation valuation. The Volunteer Service rate experienced a significant increase from a beneficiary's birthdate change making the person about 10 years younger.

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

**SECTION 1.** That the City Council has accepted the actuarial valuation of the Local Fire Pension plan that was consolidated into LOPFI in 2020 with increases of \$200 per month for paid service participants and \$50 per month for volunteer participants and the City's paid service rate will not change.

PASSED AND APPROVED this the \_\_\_\_\_ day of June, 2021.

\_\_\_\_\_  
Tom Farmer, Mayor

\_\_\_\_\_  
Cindy Stracener, City Clerk

**ORDINANCE NO. 31 OF 2021**

**AN ORDINANCE REVISING THE CITY OF BENTON  
PURCHASING POLICIES AND PROCEDURES AS ADOPTED  
IN ORDINANCE 68 OF 2016; AND FOR OTHER PURPOSES**

**WHEREAS**, the City Council of the City of Benton, Arkansas, desires to utilize efficient procedures and operating standards for all purchases and financial activities made by City departments and employees;

**WHEREAS**, State statutes establish certain purchasing procedures to which the City must adhere;

**WHEREAS**, these policies and procedures promote compliance with state law and also promote the financial integrity of the purchasing systems of the City; and

**WHEREAS**, the City of Benton Purchasing Policies and Procedures 2017 were adopted by the City Council in Ordinance 68 of 2016 and is hereby amended to include e-transactions and approved users.

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

**SECTION 1.** The City Council does hereby adopt the City of Benton, Arkansas Purchasing Procedures 2021 which is attached hereto as Exhibit 1 which is incorporated now by reference as if stated word for word as the purchasing procedures for the City.

**SECTION 2.** This ordinance hereby repeals any other ordinances in conflict herewith including Ordinance 2 of 1996, Ordinance 27 of 2005, and Ordinance 68 of 2016.

**SECTION 3.** If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect the other provisions or applications of this ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this ordinance are hereby declared to be severable.

PASSED AND APPROVED this the \_\_\_\_\_ day of June, 2021.

\_\_\_\_\_  
Tom Farmer, Mayor

\_\_\_\_\_  
Cindy Stracener, City Clerk



# **CITY OF BENTON, ARKANSAS**



## **Purchasing Procedures 2021**



## Table of Contents

1.0 – City of Benton Purchasing Procedures.....	2
2.0 – Purchasing Responsibility.....	2
3.0 – Procurement Rules .....	2
A.    Departmental Authorized Purchasing Agents .....	3
B.    Preferred Vendors .....	3
C.    Purchase Orders .....	3
D.    Solicitations and Bid Documents .....	3
E.    Source Selection .....	3
F.    Standards of Conduct .....	7
G.    Purchasing Standards .....	8
H.    Electronic Commerce & other Electronic Transfer of funds.....	9
Appendix A.....	10
Preferred Vendor Application.....	10
Appendix B.....	11
Contract Information Sheet .....	11
Appendix C.....	12
Purchasing Levels of Authority Chart.....	12
Appendix D.....	13

## 1.0 – City of Benton Purchasing Procedures

The City of Benton Finance Department has put into place purchasing procedures designed to promote compliance with the financial integrity provisions of the Arkansas Code Annotated. This document reflects those procedures which assure sound accounting practices while making purchases for the City of Benton.

As a municipality, the City of Benton has an established system of internal control that provides reasonable assurance that objectives have been achieved in: 1) the effectiveness and efficiency of operations, 2) the reliability of financial reporting and 3) compliance with applicable laws and regulations. The City of Benton also has established an effective anti-fraud program that: 1) creates a culture of honesty, 2) evaluates the risks of fraud and implements the processes, procedures and controls needed to mitigate those risks and 3) develops an appropriate oversight process. It is the policy of the City of Benton, to the extent that is reasonable, to conduct its contracting affairs in an open, competitive manner.

## 2.0 – Purchasing Responsibility

The Mayor or the Mayor's duly authorized representative shall have exclusive power and responsibility to make purchases of all supplies, apparatus, equipment, materials, and other things requisite for public purposes in and for the City of Benton and to make all necessary contracts for work or labor to be done or material or other necessary things to be furnished for the benefit of the City of Benton, or in carrying out any work or undertaking of a public nature therein.

## 3.0 - Procurement Rules

All purchases shall be done in conformity with the following provisions:

1. Purchase in such a manner as to ensure that the expenditure of public funds will secure for the taxpayers of the City of Benton the most public good for the least possible cost.
2. Treat each vendor on an equal basis with all others in the consideration of his or her product and give each vendor or prospective vendor a fair and open opportunity for the business.
3. To buy in Benton whenever possible and where not inconsistent with good business practices utilizing the Preferred Vendor list.
4. All purchases of materials, supplies, equipment, or services shall be budgeted and/or approved by the city council prior to any purchase or expenditure.
5. Each department will designate authorized purchasing agents whose principal responsibility will be to submit the proper paperwork for Purchases Orders. Purchases over \$5,000 will require department head approval in addition to a purchasing agent's request.

#### A. Departmental Authorized Purchasing Agents

The City of Benton will provide leadership and assistance to all departments in the acquisition of materials, supplies, equipment, or services as well as the disposal of surplus property and equipment. Each department will designate authorized purchasing agents whose principal responsibility will be to submit the proper paperwork for Purchases Orders. Purchasing agents will be assigned a designated approval limit.

#### B. Preferred Vendors

The City of Benton whenever possible and where not inconsistent with good business practices will utilize the Preferred Vendor list located on the City of Benton website. Vendors will be encouraged to complete the Preferred Vendor application – see Appendix A. These vendors may be used for repetitive items which are not of sufficient volume or nature to warrant an annual contract.

The City of Benton will also give preference to vendors with a state contract.

All City of Benton Preferred Vendors must be in good standing with the Secretary of State and will be annually checked against the State and Federal Suspended and Debarred list. Any Vendors found to not be in good standing with the Secretary of State or on the State or Federal Suspended and Debarred list will be removed from the Benton Preferred Vendor list.

#### C. Purchase Orders

The City of Benton Purchasing Department will issue purchase orders on all purchases over fifty dollars (\$50).

#### D. Solicitations and Bid Documents

Solicitations and bid documents shall include a clear and accurate description of the material, supply, equipment, or service desired including the qualitative nature and minimum essential characteristics and standards to which the material, supply, equipment, or service must conform, the requirements that offerors must fulfill and the factors to be used in evaluating bids or proposals. Competitive procurements shall not contain features that unduly restrict competition. The City of Benton Purchasing Department shall review proposed procurements to ensure the avoidance of unnecessary or duplicate items that solicitations are either consolidated or broker out as necessary to obtain the most economical purchase for the City of Benton.

#### E. Source Selection

##### *Petty Cash.*

Each department may maintain Petty Cash funds for any item(s) required for official use and whenever the total amount of the purchases including taxes and freight does not

exceed fifty dollars (\$50). Petty Cash expenditures do not require a purchase order, however, departments are strongly encouraged to utilize the eRequester software whenever possible.

The department's authorized purchasing agent will maintain the Petty Cash funds, receipts and Petty Cash Journal Spreadsheet. All receipts must have the general ledger line item number and the signature of the department head before turning into the authorized purchasing agent. Before the petty cash funds are depleted, all receipts and a copy of the Petty Cash Journal Spreadsheet signed by the authorized purchasing agent will be presented to the Accounting Department where a check will be issued for the replacement of the depleted funds. The amount of cash on hand in each department shall be determined by the Accounting Department.

*Direct purchases.*

A department's authorized purchasing agent may make purchases of materials, supplies, equipment, or services costing from \$50 but not more than \$1,000 by utilizing a Benton Preferred Vendor from the Preferred Vendor List without receiving competitive quotes. The authorized purchasing agent will ensure that purchases are a legitimate expense for the City of Benton, budgeted funds are available, and the materials, supplies, equipment, and services are to be used solely and exclusively by and for the city.

*\*Prior to any direct purchase, the department's authorized purchasing agent will utilize the eRequester software to initiate a Purchase Order request.*

*Small purchases.*

A department's authorized purchasing agent may make purchases of materials, supplies, equipment, or services costing more than \$1,000 but less than \$5,000 only after first securing 3 competitive written or electronic quotes or by utilizing a Benton Preferred Vendor from the Preferred Vendor List. Each quote must include the following: Vendor name, address, phone number, date and price quoted. The authorized purchasing agent will ensure that purchases are a legitimate expense for the City of Benton, budget funds are available, and the materials, supplies, equipment, services are to be used solely and exclusively by and for the city.

*\*Prior to any small purchase, the department's authorized purchasing agent will utilize the eRequester software to initiate a Purchase Order request.*

*Intermediate purchases.*

A department's authorized purchasing agent may make purchases of materials, supplies, equipment, or services costing more than \$5,000 but less than \$20,000 only after first securing 3 written or electronic competitive quotes and the department head's signature

of approval. The authorized purchasing agent will ensure that purchases are a legitimate expense for the City of Benton, budget funds are available, and the materials, supplies, equipment, services are to be used solely and exclusively by and for the city.

*\*Prior to any intermediate purchase, the department's authorized purchasing agent will utilize the eRequester software to initiate a Purchase Order request.*

#### *Large procurements.*

When purchasing materials, supplies, equipment, or services costing over \$20,000 the City of Benton shall invite competitive bidding on the purpose or contract by legal advertisement in a local newspaper published and having a general circulation in Benton once a week for two consecutive weeks prior to the bid opening. Bids received pursuant to the advertisement shall be opened and read on the date set for receiving the bids in the presence of the Mayor or the Mayor's authorized representative. The Mayor or the Mayor's authorized representative shall have exclusive power to award the bid to the lowest responsible bidder, but may reject any and all bids received.

The City of Benton may waive the requirements of competitive bidding in exceptional situations where this procedure is deemed not feasible or practical or as provided under A.C.A. 14-58-104.

#### *Reverse Internet Auctions.*

Where appropriate, and excluding purchases and contracts for construction projects and materials, the Purchasing Department is hereby authorized to utilize reverse internet auctions pursuant to A.C.A. 14-58-303 © in this section.

The following procedures shall apply to all such auctions:

1. Bidders shall be provided instructions and individually secured passwords for access to the reverse internet auction by the City of Benton or the reverse Internet auction vendor;
2. The bidding process shall be times, and the time shall be part of the reverse internet auction specifications;
3. The reverse internet auction shall be held at a specific date and time;
4. The reverse internet auction and bidding process shall be interactive with each bidder able to make multiple bids during the allotted time;
5. Each bidder shall be continually signaled his or her relative position in the bidding process;
6. Bidders shall remain anonymous and shall not have access to other bidders or bids, and
7. The City of Benton Purchasing Department shall have access to real-time data, including all bids and bid amounts.

The City of Benton may create, by an additional ordinance, reverse internet auction specifications for the anticipated purchase of a specific item or purchase. The City of Benton Purchasing Department is hereby authorized to pay a reasonable fee to the reverse internet auction vendor. The fee may be included as part of the bids received during the reverse internet auction and paid by the winning bidder or paid separately by the City of Benton. The City of Benton also retains the right to: refuse all bids made during the reverse internet auctions and to begin the reverse internet auction process anew if the City of Benton determines it is in the best interest of the City of Benton.

For purposes of this section, a reverse internet auction refers to an internet based process in which bidders: are given specifications for items and services being sought for purchase by a municipality and bid against one another in order to lower the price of the item or service to the lowest possible level. Reverse internet auction vendor means an internet based entity that hosts a reverse internet auction.

#### *Annual Contracts.*

Where materials, supplies, equipment, or services are used by the City of Benton on a regular or recurring basis rendering it impractical to conduct a procurement process each time the item is needed, the Purchasing Department may conduct a procurement process for an annual contract based on the annual expenditure for the material, supply, or service.

#### *Sole Source Items.*

Where materials, supplies, equipment, or services are used by the City of Benton and are exclusively available from a single vendor or manufacturer and for which no substitute item is practical or feasible, the Purchasing Department may conduct a sole source procurement for the items. The requesting department shall submit in writing a justification including: copy of the proposed requisition, why the service is needed, the methods used to determine that a lack of responsive competition exists, and why the service is unique or not available from other sources.

#### *Insurance.*

The procurement of all types of insurance shall be accomplished in accordance with the requirement of this ordinance except where it has already been determined that self-insurance through the Arkansas Municipal League, etc. is a better long term solution.

#### *Public Works Projects.*

Construction, repair, or improvement contracts for the City of Benton will be awarded pursuant to the requirements of A.C.A. 22-9-203—204 and all applicable state and federal regulations.

*Professional Services Contracts.*

Where professional, legal, architectural, engineering, construction, management, and land surveyor consulting services are used by the City of Benton in accordance with A.C.A. 19-11-801. Other similar consulting services are hereby added as "professional services" and may also be procured pursuant to A.C.A. 19-11-801. For purposes of this paragraph, other consulting services means services provided by members of a recognized profession or possessing a special skill of an advisory nature supporting policy development, decision making, administration or management of general governmental operations.

*Purchasing Cooperatives.*

Purchasing Cooperatives as allowed in ACA 19-11-249, may be utilized by the City of Benton for the procurement of goods and services if deemed in the best interest of the City.

## F. Standards of Conduct

*Conflict of Interest*

No city employee, officer, agent, or city council member or immediate family member of any such person shall participate in the selection, award, or administration of a procurement or contract if a conflict of interest, real or apparent would be involved except as may be permitted by ordinance of the city council members pursuant to A.C.A. 14-47-115 and A.C.A. 14-47-137. Such a conflict would arise when any of the following has a financial or other interest in the firm selected for award: the employee, officer, agent or city council member; any member of his/her immediate family; or his/her business partner; or an organization that employs, or is about to employ, any of the above.

*Prohibition against gratuity and contingent fees*

The officers, employees, city council members, or agents of the city shall neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors or parties to sub-agreements. Provided, however, that unsolicited promotional items of nominal intrinsic value and minimal meal costs incurred as a result of business meetings with contractors are hereby exempt. Said promotional items may not exceed twenty-five dollars (\$25) per item and said meals may not exceed the General Services Administration (GSA) per diem rate per meal.

*Disciplinary action*

Appropriate disciplinary action shall be taken by the Mayor for any violation of these standards of conduct.

G. Purchasing Standards

*Contract Review.*

All contracts and contract amendments shall be reviewed by the City Attorney prior to execution and will be checked against the state and federal debarred list. See Appendix D.

*Contract Information Sheet.*

A copy of all contracts and contract amendments shall include the Contract Information Sheet and filed with the Administrative Services Department. See Appendix B

*Terms and Conditions.*

All contracts and contract amendments shall include standard terms and conditions for purchases.

*Payment Verification.*

All invoices submitted for payment shall be audited for accuracy and correctness including submission of complete documentation supporting the invoiced amount. Prior to approval for payment, invoices shall be reviewed for verification that all work was performed as invoiced; that all products and services were received or provided as invoiced; and that the contract terms and conditions were met. Once audited and agreed upon, signature by the authorized purchasing agent/ Department Head / Mayor will serve as approval to process and pay the invoice.



#### H. Electronic Commerce & other Electronic Transfer of funds

For local governments that are processing financial transactions electronically, both receipts and disbursements should be processed in accordance with applicable laws, industry best practices, Arkansas Legislative Audit best practices, and the secure process established by the financial institution. The two methods most commonly used are as follows:

- Electronic funds transfer (EFT), which refers to moving funds electronically to and from different bank accounts. EFT transactions are generally processed through the Automated Clearing House (ACH) and can take up to 3 days to process.
- Wire transfer, which also refers to moving funds electronically to and from different bank accounts but is usually effective within minutes of being executed.

#### *Authorized Users.*

The City Council authorizes the Chief Financial Officer, Accounting Manager and the Accountant to initiate, approve, transmit and record e-transactions. Weekly at a minimum e-transactions will be reviewed thoroughly and reconciled.

Each of the users identified above will have their own user specific user ID and password that will be used for initiating and approving e-transactions. The user that initiates shall not be the same user that approved the e-transaction.

#### *Procedures*

The City of Benton bank accounts will be monitored daily as well as utilizing the positive pay feature provided through the bank to ensure only authorized checks pass through the City of Benton's bank accounts. At the end of each day, one of the users listed above will upload the positive pay file generated from our financial system in the bank's secure portal. Each morning, the users listed above will receive an email generated from the bank with updates as to whether an exception has occurred. If an exception has been created then the users listed above have until 11:00 am to verify before the item is returned without payment.

The City of Benton utilizes a program developed by the State of Arkansas to collect payments online called City Pay. Each department that receives monies has the ability to accept credit card payments/ online payments. Each department also completes a register called the City Pay Daily register and delivers it to the Finance department before 10:00 am each morning for the preceding day. Daily at a minimum e-transactions will be reviewed thoroughly and reconciled using each department's City Pay Daily register. Any outliers will be addressed with the respective department.

## Appendix A

## Preferred Vendor Application

**CITY OF BENTON, ARKANSAS**

Administrative Services

114 S. East Street

Benton, AR 72018

(501) 776-5900

**VENDOR APPLICATION**

VENDOR / BUSINESS NAME: \_\_\_\_\_

DBA: \_\_\_\_\_

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

Phone No.: \_\_\_\_\_ Fax No.: \_\_\_\_\_

E-Mail: \_\_\_\_\_ Web: \_\_\_\_\_

Product / Service offered: \_\_\_\_\_  
\_\_\_\_\_Type of Entity: \_\_\_\_\_ Sole Proprietorship \_\_\_\_\_ Partnership \_\_\_\_\_ Corporation  
Other (identify) \_\_\_\_\_

If Corporation, State incorporated in: \_\_\_\_\_

DBE/WBE Certified (by Government Agency): \_\_\_\_\_ Yes \_\_\_\_\_ No

If certified, Certifying Agency: \_\_\_\_\_

TIN / EIN: \_\_\_\_\_ SSN: \_\_\_\_\_

Subject to backup withholding: \_\_\_\_\_ Yes \_\_\_\_\_ No \_\_\_\_\_ Unknown

Hold Arkansas Sales Tax Permit: \_\_\_\_\_ Yes \_\_\_\_\_ No. If yes, No. \_\_\_\_\_

Length of time you've been providing the product/service above: \_\_\_\_\_

Require hard copy of purchase order: \_\_\_\_\_ Yes \_\_\_\_\_ No

\*\*\*\*\*  
In accordance with IRS regulations and rules, failure to provide all information or to return the  
attached IRS W-9 form (if attached) may prevent the application being processed, cause payment to  
you to be withheld until such information is received, or subject you to backup withholding.

Signature

Printed Name

Date

## Appendix B

## Contract Information Sheet



City of Benton  
114 S. East Street  
Benton, AR 72015

## Contract Information Sheet

<b>Contract #:</b>	<b>Federal ID #:</b>
<b>Vendor Name:</b>	<b>Vendor #:</b>

**1. PROCUREMENT:**

Check ONE appropriate box below for the method of procurement used for this contract.

- |   |  |
|---|--|
| <input type="checkbox"/> Competitive Quote            | <input type="checkbox"/> Invitation to Bid       |
| <input type="checkbox"/> Sole Source by Justification | <input type="checkbox"/> Request for Proposal    |
| <input type="checkbox"/> Request for Qualifications   | <input type="checkbox"/> Request for Information |
| <input type="checkbox"/> Purchasing Cooperative       | <input type="checkbox"/> Other _____             |

**2. TERM DATES:**

The term of this agreement shall begin on \_\_\_\_\_ and shall end on \_\_\_\_\_  
(mm/dd/yy) (mm/dd/yy)

**3. TOTAL PROJECTED CONTRACT COST:**

Total Projected Cost of entire project once completed	\$ _____
---	----------

**4. TERMS:**

This contract may be extended until \_\_\_\_\_ (mm/dd/yy), in accordance with the terms stated in the Procurement, by written mutual agreement of both parties and subject to approval by the Benton City Council.

**5. RENDERING OF COMPENSATION or INVOICING:**

The method of invoicing will be: ☐ monthly, ☐ quarterly, ☐ annually.

**6. OBJECTIVES and SCOPE:**

The services, objectives, and scope to be provided in this contract include:

--

## Appendix C

## Purchasing Levels of Authority Chart

Purchasing Levels of Authority Chart				
Source Selection	Level	Purchasing Method	PO Required	Approval Authority
Petty Cash	Under \$50	direct purchase and reimbursement	No	Dept Head
Direct Purchases	Under \$50	direct purchase	No	Dept Head
Direct Purchases	\$50 - \$1,000	direct purchase or from Benton Preferred Vendor	Yes	Authorized Purch. Agent
Small Purchases	\$1,000 - \$5,000	3 written or electronic competitive quotes or purchase from Benton Preferred Vendor	Yes	Authorized Purch. Agent
Intermediate Purchases	\$5,000 - \$20,000	3 written or electronic competitive quotes and the Dept head's signature	Yes	Authorized Purch. Agent & Dept Head
Large Procurements	Over \$20,000	Formal advertised bids by Purchasing Dept.	Yes	Council Approved
Reverse Internet Auction				Department Head
Annual Contract	Any Amount	Formal advertised bids by Purchasing Dept.	Yes - blanket for 12 months and \$ limit	Council Approved
Sole Source Items	Any Amount	Formal quote and Dept head's signature	Yes - blanket for 12 months and \$ limit	Authorized Purch. Agent & Dept Head
Insurance	Any Amount	Formal quote and Dept head's signature	Yes	Authorized Purch. Agent & Dept Head
Public Works Projects	Any Amount	Formal advertised bids by Purchasing Dept.	Yes	Authorized Purch. Agent & Dept Head
Professional Services Contracts	Any Amount	Formal advertised bids by Purchasing Dept.	Yes	Council Approved

## Appendix D

State Debarred and Suspension List

<http://www.dfa.arkansas.gov/offices/procurement/guidelines/Pages/suspendedDebarredVendors.aspx>

Secretary of State

[http://www.sos.arkansas.gov/corps/search\\_all.php](http://www.sos.arkansas.gov/corps/search_all.php)

Federal Debarred and Suspension List

<https://www.sam.gov/portal/SAM/#>

**ORDINANCE NO. 32 OF 2021**

**AN ORDINANCE WAIVING COMPETITIVE BID AND APPROVING  
THE PURCHASE OF IT EQUIPMENT, AND DECLARING AN  
EMERGENCY; AND FOR OTHER PURPOSES**

**WHEREAS**, the City of Benton entered into an agreement with Edafio Technologies for IT support. After assessment of the Police Department certain recommendations were made for the purchase of IT equipment;

**WHEREAS**, the Mayor and City Council of the City of Benton, Arkansas have determined to allow the purchase without competitive bidding in connection therewith; and

**WHEREAS**, the wishes to authorize and approve the transaction described below.

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

**SECTION 1.** It is in the best interest of the City to allow the purchase of this equipment through Edafio Technologies;

**SECTION 2.** The requirement of competitive bidding for the purchase hereby authorized is deemed not feasible or practical due to the time constraints of getting the equipment upgraded.

**SECTION 3.** The Mayor and City Clerk are hereby authorized and directed to execute documents needed to purchase said IT equipment.

**SECTION 4.** An emergency exists to purchase this IT equipment and to acquire based on the quoted upon price. Therefore, an emergency exists, and this ordinance is necessary for the preservation of public peace, health, and safety. It shall be in full force and effect immediately from and after its passage and approval.

PASSED AND APPROVED this the \_\_\_\_\_ day of June, 2021.

\_\_\_\_\_  
Tom Farmer, Mayor

\_\_\_\_\_  
Cindy Stracener, City Clerk

**ORDINANCE NO. 33 OF 2021**

**AN ORDINANCE WAIVING COMPETITIVE BID AND APPROVING  
THE PURCHASE OF 2 CHEVROLET TAHOES, AND DECLARING AN  
EMERGENCY; AND FOR OTHER PURPOSES**

**WHEREAS**, the Benton Police Department has the need to purchase two Chevrolet Tahoes that are above the State bid price by \$1660 each. It has been determined that there are no other police Tahoes available for purchase;

**WHEREAS**, the Mayor and City Council of the City of Benton, Arkansas have determined to allow the purchase without competitive bidding in connection therewith; and

**WHEREAS**, the wishes to authorize and approve the transaction described below.

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

**SECTION 1.** It is in the best interest of the City to allow the purchase of these two Tahoes;

**SECTION 2.** The requirement of competitive bidding for the purchase hereby authorized is deemed not feasible or practical due to the lack of product available to purchase.

**SECTION 3.** The Mayor and City Clerk are hereby authorized and directed to execute documents needed to purchase said vehicles.

**SECTION 4.** An emergency exists to purchase these Tahoes and to acquire based on the quoted upon price. Therefore, an emergency exists, and this ordinance is necessary for the preservation of public peace, health, and safety. It shall be in full force and effect immediately from and after its passage and approval.

PASSED AND APPROVED this the \_\_\_\_\_ day of June, 2021.

\_\_\_\_\_  
Tom Farmer, Mayor

\_\_\_\_\_  
Cindy Stracener, City Clerk

**RESOLUTION NO. 55 OF 2021**

**A RESOLUTION DECLARING CERTAIN PROPERTY AS  
SURPLUS; AND AUTHORIZING THE SALE OF THE SURPLUS  
PROPERTY AT AUCTION**

**WHEREAS**, the City of Benton Police Department owns a 1989 Ford F-350 Box Van, Vin No. 1FDKF38M2KNB76744 which is no longer of use to the City; and

**WHEREAS**, the City Council desires to declare this property as surplus and to authorize the Police Chief to sale it at public auction.

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

**SECTION 1.** The City's 1989 Ford F-350 Box Van, Vin No. 1FDKF38M2KNB76744 is hereby declared as surplus property and shall be sold at public auction in accordance with any applicable state or federal law.

**SECTION 2.** The Police Chief is hereby authorized to set the terms and conditions for the auction with respect to the amount of the deposit required on the day of sale, closing and all other necessary terms for the sale, including the date for when the surplus property shall be delivered to the successful bidder.

PASSED AND APPROVED this the \_\_\_\_\_ day of June, 2021.

\_\_\_\_\_  
Tom Farmer, Mayor

\_\_\_\_\_  
Cindy Stracener, City Clerk



**RESOLUTION NO. 56 OF 2021**

**A RESOLUTION AUTHORIZING THE MAYOR AND THE POLICE CHIEF TO APPLY FOR GRANT FUNDING THROUGH THE US DEPARTMENT OF JUSTICE, OFFICE OF COMMUNITY ORIENTED POLICING SERVICES (COPS); AND FOR OTHER PURPOSES**

**WHEREAS**, the Chief of Police, Scotty Hodges, is requesting that the City Council authorize the City to apply for a grant through the US Department of Justice, Office of Community Oriented Policing Services (COPS) for the purpose of hiring 4 Police Officers to increase our community policing capacity and crime prevention efforts; and

**WHEREAS**, the City Council wishes to authorize the Mayor and the Police Chief to apply for such grant funding.

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

**SECTION 1.** The City Council does hereby authorize the Mayor and the Police Chief to make an application through the COPS Hiring Program for the purposes stated herein. The Mayor, Police Chief, City Clerk, and the City Attorney are all authorized and directed to execute any document which may be necessary or convenient to fulfill the purposes of this Resolution.

PASSED AND APPROVED this the \_\_\_\_\_ day of June, 2021.

\_\_\_\_\_  
Tom Farmer, Mayor

\_\_\_\_\_  
Cindy Stracener, City Clerk

**RESOLUTION NO. 57 OF 2021**

**A RESOLUTION AMENDING THE 2021 BUDGET BY  
INCREASING THE EXPENDITURES FOR THE UPGRADE OF IT  
IN THE POLICE DEPARTMENT; AND FOR OTHER PURPOSES**

**WHEREAS**, the City Council needs to amend the 2021 City of Benton budget in order to appropriate expenses associated with the IT upgrade for the Police Department in the amount of \$53,437 in line item 785.17.

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

**SECTION 1.** Pursuant to the authority granted in Ark. Code §§ 14-58-202 and 14-58-203 the City Council does hereby amend the FY2021 City of Benton Budget as adopted in Resolution 96 of 2020. The budget revisions are attached hereto as Exhibit 1 to this Resolution and are more fully described.

PASSED AND APPROVED this the \_\_\_\_\_ day of June, 2021.

\_\_\_\_\_  
Tom Farmer, Mayor

\_\_\_\_\_  
Cindy Stracener, City Clerk



## City of Benton, Arkansas

Special Fund  
Budget Amendment  
FY 2021

The Finance Committee of the City of Benton does hereby submit for approval a budget amendment for the Fiscal Year 2021. This submittal includes a revision for the Special Fund.

Section 1 defines the dollar amount of the amendments contained in this exhibit.

Section 2 is a detailed explanation of the amended Funding and Disbursements.

### Section 1: Amended Appropriations – Fiscal Year 2021

#### Special Fund

	Beginning Approved Budget	Budget Amendment	Revised Budget
Receipts	\$1,111,099		\$1,111,099
Expenditures	\$934,792	\$53,437	\$988,229
Total Budget	\$176,307		\$122,870

### Section 2: Funding & Disbursements – Fiscal Year 2021

#### Special Fund

#### Expenditures

This budget amendment increases the amount budgeted to the following line items.

Police Federal Treasury	785.17	\$53,437
-------------------------	--------	----------

PD IT

**RESOLUTION NO. 58 OF 2021**

**A RESOLUTION AMENDING THE 2021 BUDGET AND APPROPRIATING FUNDS FOR THE PURPOSE OF INFRASTRUCTURE IMPROVEMENTS FOR ECONOMIC DEVELOPMENT PURPOSES; AND FOR OTHER PURPOSES**

**WHEREAS**, a national restaurant chain has announced plans to improve the current commercial development located between Highway 35 and Highway 5 within the City of Benton;

**WHEREAS**, the City Council, as promised in Resolution 30 of 2008 as an economic incentive for businesses to locate in Benton, desires to pay for a water line extension project that will improve the current water flow of the commercial development in the amount not to exceed \$57,857;

**WHEREAS**, the national restaurant chain qualifies for the incentive funds under the terms of the Resolution; and

**WHEREAS**, the City Council needs to amend the 2021 City of Benton budget in order to appropriate expenses associated with the economic development improvement by reallocating funds within the Community Development department within the General Fund, see Exhibit 1.

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

**SECTION 1.** The Mayor is hereby authorized to pay to the Benton Utility Department for the purchase and installation of the water line extension project in the amount not to exceed \$57,857 to be located at the shopping center between Highway 35 and Highway 5 within the City of Benton.

**SECTION 2.** Pursuant to the authority granted in Ark. Code §§ 14-58-202 and 14-58-203 the City Council does hereby amend the FY2021 City of Benton Budget as adopted in Resolution 96 of 2020. The budget revisions are attached hereto as Exhibit 1 to this Resolution and are more fully described.

PASSED AND APPROVED this the \_\_\_\_\_ day of June, 2021.

\_\_\_\_\_  
Tom Farmer, Mayor

\_\_\_\_\_  
Cindy Stracener, City Clerk



## City of Benton, Arkansas

General Fund  
Budget Amendment  
FY 2021



The Finance Committee of the City of Benton does hereby submit for approval a budget amendment for the Fiscal Year 2021. This submittal includes a revision for the General Fund.

Section 1 defines the dollar amount of the amendments contained in this exhibit.

Section 2 is a detailed explanation of the amended Funding and Disbursements.

### Section 1: Amended Appropriations – Fiscal Year 2021

#### General Fund

	Beginning Approved Budget	Budget Amendment	Revised Budget
Receipts	\$18,313,906		\$18,313,906
Personnel	\$14,801,727		\$14,801,727
O&M, Other, etc	\$3,751,935		\$3,751,935
Capital Items	\$161,908		\$161,908
Total Budget	(\$401,664)		(\$401,664)

### Section 2: Funding & Disbursements – Fiscal Year 2021

#### General Fund

#### Expenditures

This budget amendment reallocates funds between the two line items listed below

Facility Maintenance	740.41.14.24	(\$40,000)
Economic Development Promotiona	820.43.14.24	\$40,000

GF an

**RESOLUTION NO. 59 OF 2021**

**A RESOLUTION AUTHORIZING THE CITY TO ENTER INTO A  
CONTRACT WITH BACKDRAFT OPCO LLC FOR THE USE OF  
THE NATIONAL FIRE INCIDENT REPORTING SYSTEM; AND  
FOR OTHER PURPOSES**

**WHEREAS**, the City Council of the City of Benton, Arkansas, desires to enter into a contract on behalf of the Benton Fire Department with Backdraft OpCo LLC for the use of its software for the National Fire Incident Reporting System.

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

**SECTION 1.** The Mayor and City Clerk are hereby authorized to execute, on behalf of the City of Benton, Arkansas, a one (1) year agreement with Backdraft OpCo LLC. The contract is attached hereto as Exhibit "1" and is incorporated now by reference as if stated word for word.

PASSED AND APPROVED this the \_\_\_\_\_ day of June, 2021.

\_\_\_\_\_  
Tom Farmer, Mayor

\_\_\_\_\_  
Cindy Stracener, City Clerk



**EMERGENCY  
REPORTING**

The Most Trusted Fire & EAS Records Management Solution



Local.360.733.5245  
Toll-free/int'l.844.752.6066  
Fax.866.929.6157

Emergency Reporting  
2200 Rimland Drive, Suite 305  
Bellingham, WA 98226

[www.emergencyreporting.com](http://www.emergencyreporting.com)

January 10, 2020

Dear Valued Customer,

Enclosed is an updated form W-9 for tax purposes listing our "income tax entity", Turnout TopCo, LLC and Employer Identification Number (83-4334526). **Please issue 1099 forms to Turnout TopCo DBA Backdraft OpCo LLC.**

Please note that Backdraft OpCo dba Emergency Reporting is a disregarded entity for tax purposes and the enclosed W-9 has been completed in accordance with IRS instructions to the W-9. Our business and operating company, Backdraft OpCo, LLC dba Emergency Reporting and all payment related information remains unchanged.

Please continue to send check payments to:

Emergency Reporting  
c/o Backdraft OpCo LLC  
Dept 3980 PO Box 123980  
Dallas, TX 75312-3980

Please continue to make electronic payments to:

Bank Name & Address:	Silicon Valley Bank, 3003 Tasman Drive, Santa Clara, CA 95954
Routing Number:	121140399
Account Number:	330270595
Account Name:	Backdraft OpCo, LLC dba Emergency Reporting

Thank you for using Emergency Reporting records management and reporting services to protect and serve your community. Please reach out to our Finance Department with any questions by calling 844.752.6066 x262 or emailing [finance@emergencyreporting.com](mailto:finance@emergencyreporting.com).

Sincerely,

Backdraft OpCo LLC dba Emergency Reporting  
Steven J Anderson, Chief Financial Officer

Enc. Form W-9

# Request for Taxpayer Identification Number and Certification

► Go to [www.irs.gov/FormW9](http://www.irs.gov/FormW9) for instructions and the latest information.

Give Form to the  
requester. Do not  
send to the IRS.

Print or type.  
See Specific Instructions on page 3.

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.

Turnout TopCo LLC

2 Business name/disregarded entity name, if different from above

Backdraft OpCo LLC

3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only one of the following seven boxes.

☐ Individual/sole proprietor or single-member LLC

☐ C Corporation

☐ S Corporation

☐ Partnership

☐ Trust/estate

☒ Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ► **P**

Note: Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is not disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner.

☐ Other (see Instructions) ►

4 Exemptions (codes apply only to certain entities, not individuals; see Instructions on page 3):

Exempt payee code (if any) \_\_\_\_\_

Exemption from FATCA reporting code (if any) \_\_\_\_\_

(Applies to accounts maintained outside the U.S.)

5 Address (number, street, and apt. or suite no.) See Instructions.

2200 Rimland Drive Suite 305

6 City, state, and ZIP code

Bellingham WA 98226

7 List account number(s) here (optional)

Requester's name and address (optional)

## Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

Note: If the account is in more than one name, see the Instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Social security number

\_\_\_\_ - \_\_\_\_ - \_\_\_\_

or

Employer identification number

8 3 - 4 3 3 4 5 2 6

## Part II Certification

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
- I am a U.S. citizen or other U.S. person (defined below); and
- The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the Instructions for Part II, later.

Sign  
Here

Signature of  
U.S. person

Date ► 01/05/2021

## General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

**Future developments.** For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to [www.irs.gov/FormW9](http://www.irs.gov/FormW9).

## Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)

- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, later.



## ORDINANCE NO. 34 OF 2021

**AN ORDINANCE AUTHORIZING THE ISSUANCE OF A PROMISSORY NOTE TO PROVIDE SHORT-TERM FINANCING UNDER AMENDMENT NO. 78 TO THE ARKANSAS CONSTITUTION FOR THE ACQUISITION AND INSTALLATION OF LIGHTING AND RELATED EQUIPMENT AT TYNDALL PARK; PROVIDING FOR THE PAYMENT OF THE PRINCIPAL OF, AND INTEREST ON, THE NOTE; DESIGNATING THE NOTE AS A QUALIFIED TAX EXEMPT OBLIGATION; AND PRESCRIBING OTHER MATTERS PERTAINING THERETO; DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES**

**WHEREAS**, the City of Benton, Arkansas (the "City") is authorized and empowered under the provisions of Amendment No. 78 to the Arkansas Constitution ("Amendment No. 78") and Act No. 1808 of 2001, as amended (codified as Title 14, Chapter 78 of the Arkansas Code of 1987 Annotated) (the "Act," and collectively with Amendment No. 78, the "Authorizing Legislation"), to issue notes and to expend the proceeds thereof to finance all or a portion of the costs of acquiring, constructing, installing and renting real property or tangible personal property having an expected useful life of more than one year;

**WHEREAS**, it is proposed that the City issue its promissory Note in a principal amount of \$658,621.00 (the "Note") under the Act for the purpose of financing the acquisition and installation of lighting and related equipment at the City's Tyndall Park (collectively, the "Financed Property");

**WHEREAS**, to finance the costs of the Financed Property, the City intends to arrange financing (the "Loan") from Musco Finance, LLC (the "Lender") and to issue the Note to the Lender at a price of par in consideration of the Loan; and

**WHEREAS**, the City desires to designate the Note as a "qualified tax exempt obligation" of the City for the purposes of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended (the "Code").

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

**SECTION 1.** That the City Council hereby finds that the Financed Property is real or tangible personal property having a useful life of more than one year. The City Council further finds that the sum of the principal amount of the Note and the outstanding principal amount of the City's other short-term financing obligations issued pursuant to the Authorizing Legislation do not exceed five percent (5%) of the assessed value of taxable property located within the City as determined by the last tax assessment completed prior to the issuance of the Note.

**SECTION 2.** That under the authority of the Constitution and laws of the State of Arkansas, including particularly the Authorizing Legislation, the Note is hereby authorized and ordered to be issued to the Lender in consideration for the Loan in the principal amount of \$658,621.00 for the purpose of financing all or a portion of the cost of the Financed Property and paying expenses of issuing the Note. The Note shall be dated the date of issuance and shall bear interest on the outstanding principal amount at a fixed rate of 2.84% per annum. The Note shall be issued in fully registered form and may be prepaid at the times and in the manner permitted in the Note.

**SECTION 3.** That, as provided in the Authorizing Legislation, the annual debt service payments on the Note in each fiscal year shall be charged against and paid from the general revenues of the City for such fiscal year. For the purpose of making the debt service payments, there is hereby, and shall be, appropriated to pay the Note, an amount of unrestricted general revenues of the City sufficient for such purposes. The City's chief financial officer is hereby authorized and directed to withdraw unrestricted

general revenues of the City in the amounts and at the times necessary to make the debt service payments on the Note.

**SECTION 4.** The City shall provide such financial information to the Lender as the Lender may reasonably request.

**SECTION 5.** The Mayor and City Clerk, for and on behalf of the City, are hereby authorized and directed to do any and all things necessary to effect the issuance, execution, and delivery of the Note, and the performance of all acts of whatever nature necessary to effect and carry out the authority conferred by this Ordinance. The Mayor and City Clerk are hereby further authorized and directed, for and on behalf of the City, to execute all papers, documents, certificates, and other instruments that may be required for the carrying out of such authority or to evidence the exercise thereof.

**SECTION 6.** The City hereby represents that it reasonably expects that it will not issue more than \$10,000,000 of tax-exempt obligations (not counting private-activity bonds except for qualified 501(c)(3) bonds as defined in the Code) during the calendar year in which the Note is executed and delivered. The City hereby designates the Note as a "qualified tax-exempt obligation" for the purposes of the Code.

**SECTION 7.** Severability. In the event any title, section, paragraph, item, sentence, clause, phrase, or word of this Ordinance is declared or adjudged to be invalid or unconstitutional, such declaration or adjudication shall not affect the remaining portions of this Ordinance, which shall remain in full force and effect as if the portion so declared or adjudged invalid or unconstitutional was not originally a part of this Ordinance.

**SECTION 8.** All ordinances or resolutions of the City in conflict herewith are hereby repealed to the extent of such conflict.

**SECTION 9.** **Emergency.** It is hereby found and determined that the acquisition and installation of the Financed Property is immediately necessary in order to preserve the public health, safety and welfare; THEREFORE, an emergency is hereby declared to exist, and this Ordinance shall be in full force and effect from and after its passage and approval.

PASSED AND APPROVED this the \_\_\_\_\_ day of June, 2021.

\_\_\_\_\_  
Tom Farmer, Mayor

\_\_\_\_\_  
Cindy Stracener, City Clerk



## ESCROW AGREEMENT

This Escrow Agreement (the "**Escrow Agreement**") dated as of July 30, 2021 and entered into among the following parties:

"**City**" means: City of Benton, Arkansas, a city and political subdivision created and existing pursuant to the laws of the State of Arkansas.

"**Escrow Agent**" means: Bank OZK, an Arkansas banking corporation.

"**Lender**" means: Musco Finance, LLC, an Arkansas corporation.

### W I T N E S S E T H:

1. This Escrow Agreement relates to the Loan Agreement, dated as of July 30, 2021 (the "**Loan Agreement**"), between Lender and City.

2. Except as otherwise defined herein, all terms defined in the Loan Agreement shall have the same meaning for the purposes of this Escrow Agreement as in the Loan Agreement. "**Funding Expiration Date**" shall mean the date which is three (3) years after the date of this Escrow Agreement.

3. Lender, City, and Escrow Agent agree that Escrow Agent will act as sole Escrow Agent under the Loan Agreement and this Escrow Agreement, in accordance with the terms and conditions set forth in this Escrow Agreement.

4. There is hereby established in the custody of Escrow Agent a special trust fund and sub-accounts therein with an account number(s) to be designated by Escrow Agent (the "**Escrow Fund**") which shall be held and administered by Escrow Agent in trust in accordance with this Escrow Agreement. The money and investments held by Escrow Agent under this Escrow Agreement are irrevocably held in trust for the benefit of City and Lender.

5. Lender shall deposit \$658,621.00 in the Escrow Fund. Monies held by Escrow Agent hereunder shall be invested and reinvested by Escrow Agent upon written order of a representative of City in Qualified Investments (as defined below) maturing or subject to redemption at the option of the holder thereof prior to the date on which it is expected that such funds will be needed and in any event not later than the Funding Expiration Date. Such investments shall be held by Escrow Agent in the Escrow Fund and any interest earned on such investments shall be deposited in the Escrow Fund. Escrow Agent may act as purchaser or agent in the making or disposing of any investment.

6. "**Qualified Investments**," to the extent permitted by law, means: (a) direct general obligations of the United States of America; (b) obligations the timely

payment of the principal of and interest on which is fully and unconditionally guaranteed by the United States of America; (c) general obligations of the agencies and instrumentalities of the United States of America; (d) certificates of deposit, time deposits or demand deposits with any bank or savings institution, including Escrow Agent or any affiliate thereof, provided that such certificates of deposit, time deposits or demand deposits, if not insured by the Federal Deposit Insurance Corporation, are fully secured by obligations described in clauses (a), (b) or (c) above; (e) money market funds comprised exclusively of obligations of the type described in clauses (a), (b) or (c) above, provided such funds are registered under the Federal Investment Company Act of 1940, whose shares are registered under the Federal Securities Act of 1933, and have a rating by S&P of AAAm-G; AAAm, or AAm, or by Moody's of P-1 or P-2; or (f) repurchase agreements with any state or national bank or trust company, including Escrow Agent or any affiliate thereof, that are secured by obligations of the type described in clauses (a), (b) or (c) above; provided that such collateral is free and clear of claims of third parties, that Escrow Agent or a third party acting solely as agent for Escrow Agent has possession of such collateral and a perfected first priority security interest in such collateral. If any of the above-described Qualified Investments are not legal investments of City, then City shall immediately notify Escrow Agent in writing which of said Qualified Investments are not legal investments of City, and shall provide Escrow Agent with direction to invest funds in accordance with this Section 6.

7. Monies in the Escrow Fund shall be used to pay for the cost of acquisition of the Financed Property. City shall send to Lender one or more properly executed Payment Request Forms executed by City, the form of which is attached hereto as Exhibit A, together with an invoice for the cost of the acquisition of the Financed Property for which payment is requested. Upon proper presentation of a Payment Request Form for the invoice upon approval by Lender, Lender shall provide the Payment Request Form to Escrow Agent, and payment shall be made by Escrow Agent from the Escrow Fund to the payee designated in the Payment Request Form for the cost of the acquisition of the Financed Property specified therein; provided, however, Escrow Agent may request any necessary signature incumbency or verification. Payment Request Forms delivered to Escrow Agent after 12:00 p.m. C.S.T will be paid the following business day.

8. The Escrow Fund shall terminate upon the earlier of (a) the disbursement of all funds from the Escrow Fund, or (b) the Funding Expiration Date. Upon any such termination, any amount remaining in the Escrow Fund shall immediately be paid as follows: first, to Escrow Agent for payment of all reasonable fees and expenses incurred by Escrow Agent in connection herewith as evidenced by its statement forwarded to City and Lender; and second, to Lender to be applied by Lender for benefit of City as follows: (i) toward the interest portion of the Financing Payment next coming due under the Loan Agreement, and (ii) toward the principal portion of the Financing Payment next coming due under the Loan Agreement. If

Lender delivers to Escrow Agent written notice of the occurrence of an Event of Default under the Loan Agreement, then Escrow Agent shall immediately remit to Lender the remaining balance of the Escrow Fund.

9. City hereby grants Lender a first priority security interest in the cash, investments and/or negotiable instruments held by Escrow Agent under this Escrow Agreement as collateral security for the payment and performance of all of City's obligations under the Loan Agreement, this Escrow Agreement and any agreement, contract or instrument related to the Loan Agreement or this Escrow Agreement. City represents and warrants to Lender that the money and investments held by Escrow Agent under this Escrow Agreement are free and clear of any Liens other than Lender's security interests created under this Escrow Agreement. To the limited extent required to perfect the security interest granted by City to Lender in the cash, investments and/or negotiable instruments from time to time comprising the Escrow Fund, Lender hereby appoints Escrow Agent as its security agent, and Escrow Agent accepts the appointment as security agent, and agrees to hold physical possession of such cash, investments and/or negotiable instruments on behalf of Lender.

10. Escrow Agent may at any time resign by giving at least 30 days written notice to City and Lender, but such resignation shall not take effect until the appointment of a successor Escrow Agent. The substitution of another bank or trust company to act as Escrow Agent under this Escrow Agreement may occur by written agreement of Lender and City. In addition, Escrow Agent may be removed at any time, with or without cause, by an instrument in writing executed by Lender and City. In the event of any resignation or removal of Escrow Agent, a successor Escrow Agent shall be appointed by an instrument in writing executed by Lender and City. Such successor Escrow Agent shall indicate its acceptance of such appointment by an instrument in writing delivered to Lender, City and the predecessor Escrow Agent and thereupon such successor Escrow Agent shall, without any further act or deed, be fully vested with all the trusts, powers, rights, duties and obligations of Escrow Agent under this Escrow Agreement and the predecessor Escrow Agent shall deliver all moneys and securities held by it under this Escrow Agreement to such successor Escrow Agent.

11. Escrow Agent incurs no liability to make any disbursements pursuant to the Escrow Agreement except from funds held in the Escrow Fund. Escrow Agent makes no representation or warranties as to the title to any portion of the Financed Property or as to the performance of any obligations of Lender or City.

12. Escrow Agent shall furnish a monthly statement listing all investments to Lender and to City. Escrow Agent shall keep complete and accurate records of all money received and disbursed under this Escrow Agreement, which shall be available

for inspection by City or Lender, or the agent of either of them, at any time during regular business hours.

13. Escrow Agent may: (a) act in reliance upon any writing, notice, certificate, instruction, instrument (each an "Instrument") or signature which it, in good faith, believes to be genuine; (b) assume the validity and accuracy of any statement or assertion contained in such an Instrument; and (c) assume that any person purporting to give any such Instrument in connection with the provisions hereof has been duly authorized to do so. Except as expressly provided otherwise in this Escrow Agreement, Escrow Agent shall not be liable in any manner for the sufficiency or correctness as to form of, the manner of execution of, or the validity, accuracy or authenticity of any Instrument deposited with it, nor as to the identity, authority or right of any person executing the same. Escrow Agent may consult with counsel of its own choice and shall have full and complete authorization and protection with the opinion of such counsel. Escrow Agent shall otherwise not be liable for any mistakes of facts or errors of judgment, or for any acts or omissions of any kind unless caused by Escrow Agent's gross negligence or willful misconduct.

Notwithstanding any provision contained herein to the contrary, the Escrow Agent, including its officers, directors, employees and agents, shall:

(a) have no responsibility to inquire into or determine the genuineness, authenticity or sufficiency of any securities, checks or other documents or instruments submitted to it in connection with its duties hereunder;

(b) be entitled to deem the signatories of any documents or instruments submitted to it hereunder as being those purported to be authorized to sign such documents or instruments on behalf of the parties hereto and shall be entitled to rely upon the genuineness of the signatures of such signatories without inquiry and without requiring substantiating evidence of any kind;

(c) be entitled to refrain from taking any action contemplated by this Escrow Agreement in the event that Escrow Agent becomes aware of any disagreement between the parties hereto as to any facts or as to the happening of any contemplated event precedent to such action;

(d) have no responsibility or liability for any diminution in value of any assets held hereunder which may result from any investments or reinvestment made in accordance with the terms of this Escrow Agreement;

(e) be entitled to reimbursement of its out-of-pocket expenses including, but not limited to, the fees and costs of attorneys or agents which

Escrow Agent may find necessary to engage in performing its duties hereunder. If any amounts due the Escrow Agent are not paid by City within thirty (30) days of invoice, the Escrow Agent shall have, and is hereby granted, a prior lien upon any property, cash or assets held hereunder, with respect to its unpaid fees and unreimbursed expenses, superior to the interests of any other persons or entities; and Escrow Agent is hereby granted the right to setoff and may deduct any unpaid fees or unreimbursed expenses from amounts on deposit pursuant to this Escrow Agreement. The rights of the Escrow Agent under this subparagraph shall survive the resignation or removal of the Escrow Agent or the termination of this Escrow Agreement;

(f) in the event any dispute shall arise between the parties with respect to the disposition or disbursement of any of the assets held hereunder, be permitted to interplead all of the assets held hereunder into a court of competent jurisdiction, and thereafter be fully relieved from any and all liability or obligation with respect to such interpleaded assets. The parties to this Escrow Agreement further agree to pursue any redress or recourse in connection with such a dispute, without making the Escrow Agent a party to such action;

(g) only have those duties as are specifically provided herein, which shall be deemed purely ministerial in nature. The Escrow Agent shall neither be responsible for, nor chargeable with knowledge of, the terms and conditions of any other agreement, instruments or document between the other parties hereto, in connection herewith and shall be required to act only pursuant to the terms and provisions of this Escrow Agreement. This Escrow Agreement sets forth all matters pertinent to the escrow contemplated hereunder and no additional obligations of the Escrow Agent shall be implied from the terms of this Escrow Agreement or any other agreement;

(h) not need to expend its own funds without prospect of re-payment;  
and

(i) accept and act upon instructions or directions pursuant to this Escrow Agreement sent by unsecured email, facsimile transmission or other similar unsecured electronic methods; provided, however, that the instructions or directions shall be signed by a person as may be designated and authorized to sign for the parties to the Escrow Agreement. The parties to the Escrow Agreement shall provide to the Escrow Agent an incumbency certificate listing such designated person(s), which shall be amended whenever a person is to be added or deleted from the listing.

14. City shall bear the risk of loss for, shall pay directly, and shall defend against any and all claims, liabilities, losses, damages, fines, penalties and expenses

(including out-of-pocket and incidental expenses and fees and expenses of in-house or outside counsel) ("Losses") arising out of or in connection with (a) Escrow Agent's execution and performance of this Escrow Agreement, except to the extent and that such Losses are due to the gross negligence or willful misconduct of Escrow Agent, or (ii) Escrow Agent's following any instructions or other directions from City or Lender, except to the extent that its following any such instruction or direction is expressly forbidden by the terms hereof. The provisions of this Section shall survive the termination of this Escrow Agreement and the resignation or removal of Escrow Agent for any reason. In no event shall Escrow Agent be liable, directly or indirectly, for any special, indirect, consequential or punitive damages, losses or expenses of any kind whatsoever (including lost profits) arising out of services provided hereunder, other than damages which result from the Escrow Agent's failure to act in accordance with the standards set forth in this Escrow Agreement.

15. This Escrow Agreement shall be governed by and construed in accordance with the laws of the State of Arkansas.

16. In the event any court of competent jurisdiction shall hold any provisions of this Escrow Agreement invalid or unenforceable, such holding shall not invalidate or render unenforceable any other provision hereof.

17. This Escrow Agreement may not be amended except by a written instrument executed by Lender, City and Escrow Agent. This Escrow Agreement may be executed in several counterparts, each of which so executed shall be an original.

18. All written notices to be given under this Escrow Agreement shall be given by mail to the party entitled thereto at its address set forth below, or at such address as the party may provide to the other parties hereto in writing from time to time. Any such notice shall be deemed to have been received three (3) days after deposit in the United States mail, with postage fully prepaid.

19. This Escrow Agreement will inure to the benefit of and will be binding upon City, Lender and Escrow Agent, and their respective successors and assigns.

20. This Escrow Agreement constitutes the entire agreement by and among City, Lender and Escrow Agent.

21. Escrow Agent may employ agents, attorneys and accountants in connection with its duties hereunder and shall not be liable for any action taken or omitted in good faith in accordance with the advice of counsel, accountants or other skilled persons absent gross negligence or willful misconduct on the part of Escrow Agent in following such advice.



22. To help the government fight the funding of terrorism and money laundering activities, federal law requires all financial institutions to obtain, verify and record information that identifies each person who opens an account. When the City opens an account, the Escrow Agent will ask for the City's name, address and other information that will allow the Escrow Agent to identify the City. The Escrow Agent may also ask to see identifying documents.

*Signatures on Following Page*

IN WITNESS WHEREOF, Lender, City and Escrow Agent have caused this Escrow Agreement to be executed by their duly authorized representatives as of the date first written above.

**BORROWER: CITY OF BENTON, ARKANSAS**

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

PRINTED NAME: Tom Farmer

PRINTED TITLE: Mayor

City's Address: 114 S. East Street  
Benton, Arkansas 72015

**LENDER: MUSCO FINANCE, LLC**

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

PRINTED NAME: \_\_\_\_\_

PRINTED TITLE: \_\_\_\_\_

Lender's Address: 100 1<sup>st</sup> Ave. West  
Oskaloosa, Iowa 52577

**ESCROW AGENT: BANK OZK**

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

PRINTED NAME: Sheila Mayden

PRINTED TITLE: Executive Vice President & Trust Officer

Address: 18000 Cantrell Road  
Little Rock, Arkansas 72223  
Attention: Corporate Trust

## EXHIBIT A TO ESCROW AGREEMENT

### PAYMENT REQUEST FORM

RE: City of Benton, Arkansas Escrow Fund Established by the Escrow Agreement, dated as of July 30, 2021, among Musco Finance, LLC, City of Benton, Arkansas, and Bank OZK, Escrow Agent

Sir or Madam,

As Escrow Agent for the above-referenced Escrow Fund, you are hereby requested to pay from the Escrow Fund to the person or corporation designated below as payee the sum set forth below in payment of a portion of all of the cost of the acquisition of the equipment described below. The amount shown below is due and payable under the invoice of the payee with respect to the cost of the acquisition of the equipment and has not formed the basis of any prior request for payment. The equipment described below is part of all of the "Financed Property" that is subject to the Loan Agreement described in the above-referenced Escrow Agreement.

Financed Property Description: \_\_\_\_\_

Amount: \_\_\_\_\_

Payee: \_\_\_\_\_

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

City, State, Zip: \_\_\_\_\_

Funds should be sent via: (check and complete one)

Wire Transfer: Bank Name: \_\_\_\_\_

ABA #: \_\_\_\_\_

Beneficiary: \_\_\_\_\_

Account #: \_\_\_\_\_

Reference Info#: \_\_\_\_\_

Check: Payee: \_\_\_\_\_

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

City, State, Zip: \_\_\_\_\_

Regular mail \_\_\_\_\_ Overnight Mail \_\_\_\_\_

Credit Account:    Account Name: \_\_\_\_\_

Account No.: \_\_\_\_\_

**CITY OF BENTON, ARKANSAS,**  
City

By: \_\_\_\_\_ [FORM ONLY]

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**APPROVED:**

**MUSCO FINANCE, LLC**

By: \_\_\_\_\_ [FORM ONLY]

Title: \_\_\_\_\_

Date: \_\_\_\_\_

## LOAN AGREEMENT

**THIS LOAN AGREEMENT** (this "**Loan Agreement**") is made and effective as of the 30<sup>th</sup> day of July, 2021 (the "**Effective Date**"), by and between **THE CITY OF BENTON, ARKANSAS**, an Arkansas municipality whose address is 114 S. East Street, Benton, Arkansas 72015 (the "**City**") and **MUSCO FINANCE, LLC**, an Iowa limited liability company whose address is 100 1st Ave. West, Oskaloosa, Iowa 52577 (the "**the Lender**"), with reference to the following facts.

### RECITALS

A. The City is authorized and empowered under the provisions of Amendment No. 78 to the Arkansas Constitution ("**Amendment No. 78**") and Act No. 1808 of 2001, as amended (codified as Title 14, Chapter 78 of the Arkansas Code of 1987 Annotated) (the "**Act**," and collectively with Amendment No. 78, the "**Authorizing Legislation**"), to issue notes and to expend the proceeds thereof to finance all or a portion of the costs of acquiring, constructing, installing and renting real property or tangible personal property having an expected useful life of more than one year.

B. On June 28, 2021, the City adopted Ordinance No. \_\_\_\_\_ authorizing the issuance of a short-term financing obligation to finance all or a portion of the costs of acquiring and installing lighting and related equipment at the City's Tyndall Park pursuant to the Authorizing Legislation (collectively, the "**Financed Property**").

C. The City shall borrow from the Lender the sum of Six Hundred Fifty Eight Thousand Six Hundred Twenty One and NO/100 Dollars (\$658,621.00) (the "**Loan**") to finance the Financed Property. The Loan is evidenced by that certain Promissory Note of even date in the principal amount of the Loan (the "**Note**").

D. The Loan and Obligations (as defined herein) are general obligations of the City and shall be payable from general revenues of the City for such fiscal year.

**NOW, THEREFORE**, in consideration of the recitals above and other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, each of the parties, intending to be legally bound by the provisions hereof, agree as follows:

### **ARTICLE I DEFINITIONS**

For purposes of this Loan Agreement, the terms defined in the preamble and recitals shall have their respective meanings assigned to them and the following terms shall have the respective meanings assigned to them:

1.01 "**Business Day**" means any day other than a Saturday, Sunday or a day when banks in Little Rock, Arkansas are required or authorized by law to be closed

1.02 "**Code**" means the Internal Revenue Code of 1986, as amended.

1.03 ***“Debtor Relief Laws”*** means any applicable liquidation, conservatorship, bankruptcy, moratorium, rearrangement, insolvency, reorganization, or similar laws affecting the rights or remedies of creditors generally, as may be in effect from time to time.

1.04 ***“Escrow Agent”*** means Bank OZK, Little Rock, Arkansas, in its capacity as Escrow Agent under the Escrow Agreement, and its successors.

1.05 ***“Escrow Agreement”*** means the Escrow Agreement executed by Lender, the City and Escrow Agent, pursuant to which the Escrow Fund is established and administered.

1.06 ***“Escrow Fund”*** means the fund of that name established and administered pursuant to the Escrow Agreement.

1.07 ***“Loan Documents”*** means this Loan Agreement, the Note, the Escrow Agreement and any other instruments or documents evidencing, securing or pertaining to the Loan as shall, from time to time, be executed and delivered by the City, or any other party to the Lender pursuant to this Loan Agreement, and ***“Loan Document”*** shall mean each of the foregoing.

1.08 ***“Material Adverse Effect”*** means any (i) material adverse effect whatsoever upon the validity, performance, perfection or enforceability of any Loan Document, (ii) material adverse effect upon the financial condition of the City, (iii) material adverse effect upon the ability of the City to fulfill its obligations under the Loan Documents, or (iv) event or circumstance that causes an Event of Default (defined herein).

1.09 ***“Maturity Date”*** means the date the Loan matures, **July 30, 2026**.

1.10 ***“Obligations”*** means all present and future indebtedness, obligations and liabilities of the City to the Lender, and all renewals and extensions thereof, or any part thereof, arising pursuant to this Loan Agreement or otherwise, or pursuant to any other Loan Document, or represented by the Note, and all interest accruing thereon, and attorneys’ fees incurred in the enforcement or collection thereof, regardless of whether such indebtedness, obligations and liabilities are direct, indirect, fixed, contingent, joint, several or joint and several, and ***“Obligation”*** shall mean each of the foregoing.

1.08 ***“Person”*** means any natural person, group of natural persons, general or limited partnership, registered limited liability partnership, limited liability company, association, corporation, syndicate, joint venture, joint stock company, trust, unincorporated association, governmental body, or any agency or political subdivision thereof or any other form of legal entity.

## **ARTICLE II THE LOAN**

2.01 ***Issuance of the Note***. Subject to the terms and conditions herein, the City agrees to issue and deliver to the Lender the Note for the principal sum of \$658,621.00. The Note will be delivered to the Lender at a closing, which will take place at such time and place as may be agreed on by the City and the Lender.

2.02 Funding of the Loan; Disbursement of Funds. Upon receipt of the Note and this Loan Agreement, the Lender shall deposit, or cause to be deposited, the proceeds of the Note into the Escrow Fund under the Escrow Agreement in one advance. From the Escrow Fund, as more specifically set forth in the Escrow Agreement, funds shall be released to the City or an applicable vendor with respect to the costs of the Financed Property. Lender shall have no obligation to make any disbursement to the City or a vendor, reimburse the City for any payment made to a vendor, or consent to any request to release funds from the Escrow Fund until Lender and the Escrow Agent have received, in form and substance satisfactory to Lender, executed counterparts of all exhibits, instruments and certificates attached hereto, required by any provision of this Loan Agreement, or incorporated herein by reference.

2.03 Terms of the Note. The Note (i) shall be designated "City of Benton, Arkansas Promissory Note," (ii) shall be in the authorized principal amount of \$658,621.00, (iii) shall be dated the date of issuance and delivery thereof to the Lender, and (iv) (except as provided in Paragraph 2.08) shall bear interest on the outstanding principal amount at the rate of 2.840% per annum. Interest shall be computed on the basis of a 360-day year of twelve consecutive 30-day months.

The Note shall be issued as a single typewritten instrument in the name of the Lender in substantially the form set forth on **Exhibit A** attached hereto.

2.04 Repayment of Principal and Interest on the Loan. Commencing on July 30, 2022, and continuing on each July 30 thereafter, annual payments of all accrued interest and principal shall be due and payable as set forth in the payment schedule attached to the Note. **A final payment of all outstanding principal and interest shall be due and payable on the Maturity Date.**

2.05 No Early Prepayment. No prepayment of the amounts due by the City hereunder shall be allowed prior to the Maturity Date.

2.06 Manner and Application of Payments. All payments of principal of and interest on the Loan and the Note and any payment of fees required hereunder shall be made by the City to the Lender, in lawful money of the United States of America at the address set out for the Lender in the first paragraph of this Loan Agreement. Should the principal of, or any installment of the principal or interest on, the Loan and the Note, or any fee, become due and payable on a day other than a Business Day, the maturity thereof shall be extended to the next succeeding Business Day and interest thereon shall be payable at the then applicable rate during such extension. All payments made on the Loan and the Note shall be credited, to the extent of the amount thereof, in accordance with the terms of the Note.

2.07 Source for Payment of Note. As permitted by the Act, the annual debt service payments on the Note in each fiscal year shall be charged against and paid from the general revenues of the City for such fiscal year. The City covenants that for each fiscal year in which the Note is outstanding, the general revenues of the City shall exceed the amount of the debt service payments on the Note due in that fiscal year.

2.08 Registration of the Note. During the term of this Loan Agreement, and as long as the Note remains outstanding, the City shall keep, or cause to be kept, a complete and accurate record of all assignments of the Note in form necessary to comply with Section 149(a) of the Code.



In the event of an assignment of the Note, the Lender agrees to provide the City with the name and address of each assignee.

2.09 Qualified Tax-Exempt Obligation. The City hereby designates the Note as a "qualified tax exempt obligation" for purposes of and within the meaning of Section 265(b)(3) of the Code. The City hereby represents that it reasonably anticipates that it and other entities that issue obligations on behalf of the City will not issue tax exempt obligations (including the Note) that exceed the aggregate principal amount of \$10,000,000 during the calendar year in which the Note is executed and delivered.

2.10 Adjustment of Interest Rate Upon a Determination of Taxability. In the event of a Determination of Taxability, the interest rate of the Note shall automatically increase to the Taxable Rate retroactive to the date of issuance of the Note and the City shall pay such additional amount as will result in the Lender receiving the interest component of the Note payments at the Taxable Rate; provided, further, that such interest rate shall never exceed the then maximum interest rate allowed for similar governmental obligations pursuant to the Act, or other applicable laws in effect as of the date of any increase to such interest rate.

For purposes of this paragraph:

***"Determination of Taxability"*** means one of the following determinations, made in regard to Section 103 of the Code, as amended, to the effect that the interest payable on the Note is includable in the gross income of owner of such obligation: (i) a final determination, decision or decree by the Commissioner or any District Director of the Internal Revenue Service, or by any court of competent jurisdiction, which is not subject to further review, or (ii) an opinion of a nationally recognized bond counsel.

***"Taxable Rate"*** means the interest rate that will restore to the Lender its after-tax yield (assuming tax at the highest marginal tax rate) on the Note.

2.11 Tax-Exempt Status of Interest on Note. The parties acknowledge that the interest rate on the Note has been established based upon the assumption that the interest on the Note is excludable from gross income for federal income tax purposes. Accordingly, the City covenants with the Lender as follows:

(a) The City shall not take any action or suffer or permit any action to be taken or condition to exist that causes the interest payable on the Note to be included in gross income for federal income tax purposes. Without limiting the generality of the foregoing, the City covenants with the Lender that the proceeds of the sale of the Note will not be used directly or indirectly in such manner as to cause the Note to be treated as an "arbitrage bond" within the meaning of Section 148 of the Code.

(b) The City will not use or permit the use of the Financed Property or the proceeds of the Note in such manner as to cause the Note to be a "private activity bond" within the meaning of Section 141 of the Code.

(c) None of the gross proceeds of the Note will be used (directly or indirectly) either (i) to make or finance loans to persons other than state or local government units, or

(ii) in any trade or business carried on by any person other than a state or local government unit or other than as a member of the general public.

(d) The City will take no action that would cause the Note to be "federally guaranteed" within the meaning of the Code.

(e) The City will not reimburse itself from Note proceeds for any costs paid prior to the date the Note is issued except in compliance with United States Treasury Regulation § 1.150-2.

(f) The City will submit to the Secretary of the Treasury of the United States, not later than the 15<sup>th</sup> day of the second calendar month after the close of the calendar quarter in which the Note is issued, a statement concerning the Note that contains the information required by Section 149(e) of the Code.

### **ARTICLE III REPRESENTATIONS AND WARRANTIES OF THE CITY**

The City hereby represents and warrants as follows:

3.01 The City is an Arkansas municipality located in Saline County, Arkansas, and has the full power and authority to own property, borrow money, and consummate the transactions contemplated by this Loan Agreement.

3.02 There is no material fact that the City has not disclosed to the Lender that could have a Material Adverse Effect. No certificate or statement delivered herewith or heretofore by the City to the Lender in connection with negotiation of this Loan Agreement, contains any untrue statement of a material fact or omits to state any material fact necessary to keep the statements contained herein or therein from being misleading.

3.03 Except as previously disclosed to the Lender, there is no action, suit or proceeding at law or in equity or by or before any governmental instrumentality or other agency now pending, or, to the knowledge of the City, threatened against or affecting any of the same, or any properties or rights of any of the same, which, if adversely determined, would constitute a Material Adverse Effect on the City.

3.04 All of the Loan Documents, upon execution and delivery, will constitute valid and binding Obligations of the City, enforceable in accordance with their terms except as limited by Debtor Relief Laws.

3.05 The City does not have any existing defenses or rights of offset against the Note

3.06 The City has sought and obtained financial, legal, tax, accounting and other advice (including advice relating to structure, timing, terms and similar matters) with respect to the transaction contemplated by the Loan Documents from its financial, legal and other advisors (and not the Lender or any affiliate thereof) to the extent that the City desired to obtain such advice.

3.07 Security Interest.

(a) The City shall acquire and retain full legal title to the Financed Property and title to the Financed Property shall be and remain vested in the City, subject to the rights of Lender under this Loan Agreement. In the event Lender terminates this Loan Agreement pursuant to Article VI of this Loan Agreement, title to the Financed Property shall immediately vest in Lender free and clear of any right, title or interest of the City. The City, at its expense, will protect and defend the City's title to the Financed Property and Lender's rights and interests therein and will keep the Financed Property free and clear from any and all claims, liens, encumbrances and legal processes of the City's creditors and other persons. The City agrees Lender reserves the right to enter upon the City's property during normal business hours, upon reasonable notice and with the consent of City, and without disruption of the activities of the City, to inspect the Financed Property or to make such repairs as Lender may deem advisable or to otherwise protect Lender's right and interest in the Financed Property at Lender's expense.

(b) To the extent permitted by law, to secure the performance of all of the City's obligations under this Loan Agreement, the City does hereby grant, bargain, sell and convey to Lender, and does hereby grant to Lender a continuing security interest in, all right, title and interest of the City in and to (i) the Financed Property and (ii) all additions, attachments, accessions, and substitutions thereto, and (iii) any revenues, profits, or other proceeds (cash or noncash) therefrom. The City agrees to execute and deliver such additional documents, including, without limitation, opinions of counsel, notices and similar instruments, satisfactory to Lender, which Lender deems necessary or appropriate to establish and maintain its interest in the Financed Property or for the confirmation or perfection of this Loan Agreement and Lender's rights hereunder. The City authorizes Lender or its assigns to file one or more proper financing statements reflecting the security interests granted hereunder, including a fixture filing in the appropriate filing office.

(c) As further security for this Loan Agreement, the City does hereby grant, bargain, sell and convey to Lender, and does hereby grant to Lender a continuing security interest in, the cash and negotiable instruments from time to time comprising the Escrow Fund and in all additions, attachments, accessions, and substitutions thereto, and on any revenues, profits, or other proceeds (cash and non-cash) thereof, and agrees with respect thereto that, to the extent permitted by law, Lender shall have all the rights and remedies of a secured party under the Uniform Commercial Code as adopted by the State of Arkansas. To the extent necessary to perfect Lender's security interest in the Escrow Fund, the City shall grant to Lender such rights to control the Escrow Fund as Lender may deem reasonably necessary.

(d) If Lender's security interest in all or some of the Financed Property shall terminate in accordance herewith, at the request of the City, Lender shall execute and deliver to the City documents which evidence the termination of Lender's security or other interest in such portion of the Financed Property.

(e) The City shall promptly discharge any liens placed on the Financed Property, including, without limitation, any mechanics' or materialmen's liens. If requested by Lender, the City shall obtain the waiver of any interest in the Financed Property from any owner of, or a secured party with an interest in, equipment on which any portion of the

Financed Property becomes an accession or premises upon which the portion of the Financed Property might be deemed to be a fixture. If requested by Lender, to the extent that the Financed Property would be subject to a lien upon its acquisition by the City under any agreement or other instrument to which the City or any affiliate of the City is a party, the City shall obtain a waiver of such lien.

(f) Upon the occurrence of an Event of Default under this Loan Agreement, (i) Lender may seek to exercise the remedies described in Article VI, including repossession and sale of the Financed Property; (ii) without notice or any other action on Lender's part, full and unencumbered legal title to the Financed Property shall immediately pass and revert to Lender, and the City shall have no further interest therein; (iii) the City shall execute and deliver to Lender such documents as Lender may reasonably request to evidence the passage of the City's title and interest therein; and (iv) upon request by Lender, the City shall assemble the respective portions of the Financed Property for the benefit of and delivery to Lender.

(g) The Financed Property is and will remain personal property and will not be deemed to be affixed to or a part of the real estate on which it may be situated, notwithstanding that the Financed Property or any part thereof may be or hereafter become in any manner physically affixed or attached to real estate or any building thereon.

#### **ARTICLE IV COVENANTS AND AGREEMENTS OF THE CITY**

For the sole benefit of the Lender, which alone shall have the right to rely thereon, the City hereby covenants and agrees as follows:

4.01 The City will promptly comply with any and all covenants and provisions of this Loan Agreement, the Note and any other Loan Document.

4.02 The City will make, execute or endorse, and acknowledge and deliver or file or cause the same to be done, all such instruments, vouchers, invoices, notices, certifications and additional agreements, undertakings, and take any and all such other action, as the Lender may, from time to time, deem reasonably necessary or proper in connection with this Loan Agreement or any of the other Loan Documents and the Obligations of the City under this Loan Agreement or under any of the other Loan Documents, which the Lender may reasonably request from time to time.

4.03 At the time of the City's first knowledge or notice, as the case may be, the City shall furnish the Lender with written notice of the occurrence of any event or the existence of any condition that constitutes or upon written notice or lapse of time or both would constitute an Event of Default under the terms of this Loan Agreement, written notice specifying the nature and period of existence thereof and the action that the City is taking or proposes to take with respect thereto.

4.04 The City will promptly notify the Lender of (i) any material adverse change in its financial condition; (ii) any default under any material agreement, contract or other instrument to which it is a party or by which any of its properties are bound, or any acceleration of the maturity of any indebtedness owing by the City; (iii) any material adverse claim against or affecting the

City; and (iv) the commencement of, and any material determination in, any litigation that might have a Material Adverse Effect.

4.05 The Lender, or its designee, may inspect the City's property or audit the City's books and records from time to time as the Lender may, in its sole discretion, deem necessary or desirable.

4.06 The City will comply with all laws and regulations of the United States and of any state or states thereof and of any political subdivision thereof, and of any governmental authority that may be applicable to it or to its business; provided that this covenant shall not apply to any tax, assessment or charge that is being contested in good faith and with respect to which reserves have been established and are being maintained.

4.07 The City shall not make any changes to its basic business or to management without the prior written consent of the Lender.

4.08 The City's accounting practices shall comply with generally accepted accounting principles.

4.09 The City shall not dispose of any of its assets outside the ordinary course of business, without obtaining the prior written consent of the Lender.

4.10 The City shall provide to the Lender the annual audited financial statements of the City within 240 days after the City's fiscal year end.

4.11 The City shall purchase and maintain one or more property damage insurance policies with regard to the Financed Property sufficient to satisfy the City's obligations hereunder. The City shall furnish to Lender certificates evidencing such coverage throughout the term of this Loan Agreement. Alternatively, the City may insure the Financed Property under a blanket insurance policy or policies, which cover not only the Financed Property but also other properties. If the City shall insure similar properties by self-insurance, the City will insure the Financed Property in respect of this Loan Agreement by means of an adequate insurance fund.

## ARTICLE V EVENTS OF DEFAULT

Any of the following events shall constitute an Event of Default hereunder (each an "*Event of Default*"):

5.01 A failure by the City to make any payment of principal or interest on the Note; or

5.02 The existence of an incorrect representation or warranty made by the City to the Lender in any of the Loan Documents and continuance thereof for a period of thirty (30) days after delivery of written notice by the Lender to the City specifying the incorrect representation or warranty and requesting that it be remedied, unless the Lender agrees in writing to an extension of such period prior to expiration; or

5.03 A violation of any covenant or agreement found in this Loan Agreement and continuance thereof for a period of thirty (30) days after delivery of written notice by the Lender to the City specifying the violation and requesting that it be remedied, unless the Lender agrees in writing to an extension of such period prior to expiration; or

5.04 An involuntary case or other proceeding shall be commenced against the City, which seeks liquidation, reorganization or other relief with respect to it, or its debts or other liabilities under any bankruptcy, insolvency or other similar law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its property, and such involuntary case or other proceeding shall remain undismissed or unstayed for a period of sixty (60) days; or an order for relief against the City shall be entered in any such case under the federal Bankruptcy Code; or

5.05 The filing by the City of a voluntary petition in bankruptcy, seeking reorganization or rearrangement or taking advantage of any Debtor Relief Laws, or an answer by the City admitting the material allegations of a petition filed against the City in any bankruptcy, reorganization, insolvency, conservatorship, or similar proceeding, or an admission by the City in writing of an inability to pay its, his or her debts as they become due; or

5.06 The making by the City of a general assignment for the benefit of creditors; or

5.07 A default in the payment of any other indebtedness or the performance of any other obligation of the City to the Lender entitling the Lender to accelerate the maturity thereof or enforce its remedies with respect thereto; or

5.08 The dissolution or termination of existence of the City.

## **ARTICLE VI RIGHTS AND REMEDIES OF LENDER**

6.01 Upon the occurrence of an Event of Default that is not cured in the applicable cure period, if any, Lender may, at its sole discretion and without any further demand or notice, exercise any or all of the following remedies:

(1) Enforce this Loan Agreement by appropriate action to collect all payments and other amounts due or to become due hereunder, by acceleration or otherwise, or to cause the City to perform its other obligations hereunder in which event the City shall be liable for all costs and expenses incurred by Lender in the exercise of such remedies;

(2) Set off against and take any amounts remaining in the Escrow Fund or held under the Escrow Agreement and apply such amounts first against any costs and expenses incurred by Lender in the exercise of such remedies, and then against the balance of this Loan Agreement;

(3) Enter upon the City's premises and take possession of the Financed Property, in whole or in part at Lender's option, without demand or notice and without court order or any process of law, and remove the same and relet or otherwise dispose of the Financed Property for the City's account, in which event the City, to the extent permitted by law,

waives any and all damages resulting therefrom and shall be liable for all costs and expenses incurred by Lender in connection therewith and the difference, if any, between the amounts to be paid pursuant to the terms of this Loan Agreement and the amounts received and to be received by Lender in connection with any such reletting or sale;

(4) Terminate this Loan Agreement and repossess the Financed Property, in which event the City shall be liable for any amounts payable hereunder through the date of such termination and all costs and expenses incurred by Lender in connection therewith; or

(5) Pursue and exercise any other remedy available at law or in equity, in which event the City shall be liable for any and all costs and expenses incurred by Lender in connection therewith.

## **ARTICLE VII GENERAL PROVISIONS**

7.01 Any notices or other communications required or permitted to be given by this Loan Agreement or any other documents and instruments referred to herein must be given in writing and personally delivered or mailed by prepaid certified or registered mail or by nationally recognized overnight carrier to the addresses set out in the preamble hereof.

7.02 This Loan Agreement has been prepared, is being executed and delivered, and is intended to be performed in the State of Arkansas, and the laws of such state and the applicable federal laws of the United States of America shall govern the validity, construction, enforcement and interpretation of this Loan Agreement and all of the other Loan Documents. If any provision of any Loan Document is held to be illegal, invalid or unenforceable under present or future laws during the term of this Loan Agreement, such provision shall be fully severable; such Loan Document shall be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part of such Loan Document; and the remaining provisions of such Loan Document shall remain in full force and effect and shall not be affected by the illegal, invalid or unenforceable provision or by its severance from such Loan Document.

7.03 In the event of any conflict between the provisions hereof and of any other Loan Document, including but not limited to the Note, during the continuance of this Loan Agreement the provisions of this Loan Agreement shall control. If any action or failure to act by the City violates any covenant or obligation of the City contained herein, then such violation shall not be excused by the fact that such action or failure to act would otherwise be required or permitted by any covenant (or exception to any covenant) other than the covenant violated.

7.04 The Loan Documents shall be binding upon and inure to the benefit of the City and the Lender and their respective heirs, successors, permitted assigns and legal representatives.

7.05 The City may not, without the prior written consent of the Lender, assign any rights, powers, duties or obligations hereunder or under the Note or any Loan Document. The Lender may, at any time and from time to time, without obtaining the consent of the City, assign, transfer or otherwise convey all or any part of its interest in this Loan Agreement, the Note or any Loan Document.

7.06 The City agrees to pay, or reimburse the Lender for, the reasonable actual out-of-pocket expenses, including counsel fees and fees of any accountants, inspectors, or other similar experts, as deemed necessary by the Lender, incurred by the Lender in connection with the satisfaction of any covenant or condition constituting an uncured Event of Default, enforcement of, or the preservation of any rights under this Loan Agreement, the Note and any instrument or document now or hereafter securing the Loan indebtedness.

7.07 The Loan Documents embody the entire agreement between the parties and supersede all prior agreements and understandings, if any, relating to the subject matter hereof and thereof. All representations and warranties made by the City herein shall survive delivery of the Note and the making of the Loan. This Loan Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed to be an original and all of which taken together shall constitute but one and the same instrument. Time is of the essence of this Loan Agreement, the Note and any other Loan Documents executed and delivered in connection herewith.

7.08 Subject to Arkansas Constitution, Article 12, Section 5, the City hereby agrees to indemnify and defend the Lender from and against all demands, claims, actions or causes of action, assessments, including, without limitation, interest, penalties and reasonable attorneys' fees and expenses incurred by the Lender by reason of or resulting from a breach of any representation or warranty of the City contained in, or made pursuant to this Loan Agreement or the imposition on the Lender of any liability of the City not to be assumed by the Lender hereunder.

7.09 The City shall not file or submit, or permit the filing or submission, of all or any portion of any Loan Document relating to the Loan with the Municipal Securities Rulemaking Board's Electronic Municipal Market Access system (EMMA) (or any successor continuing disclosure vehicle) unless such Loan Document or portion thereof, as applicable, to be filed or submitted (i) has been submitted to the Lender in advance of such filing or submission, and (ii) shall have been redacted to the extent required by the Lender.

7.10 The City acknowledges and agrees that the Lender is purchasing the Note in evidence of a privately negotiated loan and in that connection the Note shall not be (i) assigned a separate rating by any municipal securities rating agency, (ii) registered with The Depository Trust Company or any other securities depository and will not be in book-entry form, (iii) issued pursuant to any type of offering document or official statement, (iv) assigned a CUSIP number by Standard & Poor's CUSIP Service, or (v) registered or otherwise qualified for sale under any state "blue sky" laws.

7.11 The Lender and its representatives are not registered municipal advisors and do not provide advice to municipal entities or obligated persons with respect to municipal financial products or the issuance of municipal securities (including regarding the structure, timing, terms and similar matters concerning municipal financial products or municipal securities issuances) or engage in the solicitation of municipal entities or obligated persons for the provision by non-affiliated persons of municipal advisory services and/or investment advisory services. With respect to this Loan Agreement, the Note, the Loan and any other information, materials or communications provided by the Lender: (a) the Lender and its representatives are not recommending an action to any municipal entity or obligated person; (b) the Lender and its



representatives are not acting as an advisor to any municipal entity or obligated person and do not owe a fiduciary duty pursuant to Section 15B of the Securities Exchange Act of 1934 to any municipal entity or obligated person with respect to this Loan Agreement, the Note, the Loan, information, materials or communications; (c) the Lender and its representatives are acting for their own interests; and (d) the City has been informed that the City should discuss this Loan Agreement, the Note, the Loan and any such other information, materials or communications with any and all internal and external advisors and experts that the City, respectively, deems appropriate before acting on this Loan Agreement, the Note, the Loan or any such other information, materials or communications.

7.12 To the extent permitted by applicable law, each of the City and the Lender irrevocably and voluntarily waives any right it may have to a trial by jury with respect to any controversy or claim between the City and the Lender, whether arising in contract or tort or by statute, including but not limited to any controversy or claim that arises out of or relates to this Loan Agreement, the Note or any of the other Loan Documents. This provision is a material inducement for the Lender's determination to make the Loan and for the parties to enter into the Loan Documents.

*Signature page follows*

**IN WITNESS WHEREOF**, the City and the Lender have caused this Loan Agreement to be executed as of the Effective Date.

THE CITY:

**THE CITY OF BENTON, ARKANSAS**  
an Arkansas municipality

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

Printed Name: Tom Farmer

Title: Mayor

LENDER:

**MUSCO FINANCE, LLC**  
an Iowa limited liability company

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

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

**EXHIBIT A**

**FORM OF PROMISSORY NOTE**

(form begins on following page)

UNITED STATES OF AMERICA  
STATE OF ARKANSAS  
CITY OF BENTON

PROMISSORY NOTE

**\$658,621.00**

**July 30, 2021  
Benton, Arkansas**

FOR VALUE RECEIVED, **THE CITY OF BENTON, ARKANSAS**, an Arkansas municipality, whose notice address is 114 S. East Street, Benton, Arkansas 72015 (the "**City**"), promises to pay to the order of **MUSCO FINANCE, LLC**, an Iowa limited liability company whose address is 100 1st Ave. West, Oskaloosa, Iowa 52577 (the "**Lender**"), or to the order of any subsequent holder hereof, in lawful money of the United States of America, the principal sum of Six Hundred Fifty Eight Thousand Six Hundred Twenty One and NO/100 Dollars (\$658,621.00), together with interest on the unpaid principal balance from the date hereof at the fixed rate of two and eighty-four one-hundredths percent (2.84%) per annum and payable as set forth herein. Terms not defined herein shall have the meaning assigned to them in the Loan Agreement executed and delivered contemporaneously herewith.

This Note is issued pursuant to the provisions of Amendment No. 78 to the Arkansas Constitution ("**Amendment No. 78**") and Act No. 1808 of 2001, as amended (codified as Title 14, Chapter 78 of the Arkansas Code of 1987 Annotated) (collectively with Amendment No. 78, the "**Act**," and collectively with Amendment No. 78, the "**Authorizing Legislation**"). This Note is further authorized pursuant to Ordinance No. \_\_\_\_\_ of the City adopted on June 28, 2021.

This Note is a general obligation of the City payable from and secured by the general revenues of the City.

1. Payment Schedule. Commencing on July 30, 2022, and continuing on each July 30 thereafter, annual payments of all accrued interest and principal shall be due and payable. The applicable principal and interest payment dates and amounts are set forth in **Exhibit A**, attached hereto. **A final payment of all outstanding principal and interest shall be due and payable on July 30, 2026.** Interest shall be computed on the basis of a 360-day year of twelve consecutive 30-day months.

2. Payments. All installments of principal and interest shall be payable to the Lender at such place as the Lender or the holder hereof may designate in writing from time to time. If any payment of principal and interest on this Note shall become due on a day that is not a Business Day, such payment shall be made on the next succeeding Business Day and such extension of time shall in such case be included in computing interest in connection with such payment.

3. Late Charges. The City shall pay to the Lender a late charge for any installment not received by the Lender within ten (10) days after the installment is due in the amount of five percent (5%) of the installment due less any partial amount paid; such late charge shall apply separately to each installment past due, but shall only be assessed once as to each late payment. The City

stipulates and agrees that any such late charge(s) shall not be deemed to be additional interest, but shall be an assessment to induce timely performance of the terms of this Note.

4. No Early Prepayment. No prepayment of the amounts due by the City hereunder shall be allowed prior to the Maturity Date.

5. Events of Default. Upon the occurrence of any of the following events of default (an "***Event of Default***"), the holder hereof may declare the entire outstanding indebtedness of the City evidenced by this Note due and payable as to principal and accrued interest including any late charges:

(a) A failure by the City to make any payment of principal or interest on the Note; or

(b) The existence of an incorrect representation or warranty made by the City to the Lender in that certain Loan Agreement of even date by and between the City and the Lender (the "***Loan Agreement***") and continuance thereof for a period of thirty (30) days after delivery of written notice by the Lender to the City specifying the incorrect representation or warranty and requesting that it be remedied, unless the Lender agrees in writing to an extension of such period prior to expiration; or

(c) A violation of any covenant or agreement found in the Loan Agreement and continuance thereof for a period of thirty (30) days after delivery of written notice by the Lender to the City specifying the violation and requesting that it be remedied, unless the Lender agrees in writing to an extension of such period prior to expiration; or

(d) An involuntary case or other proceeding shall be commenced against City, which seeks liquidation, reorganization or other relief with respect to it, or its debts or other liabilities under any bankruptcy, insolvency or other similar law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its property, and such involuntary case or other proceeding shall remain undismissed or unstayed for a period of sixty (60) days; or an order for relief against the City shall be entered in any such case under the federal Bankruptcy Code; or

(e) The filing by the City of a voluntary petition in bankruptcy, seeking reorganization or rearrangement or taking advantage of any Debtor Relief Laws, or an answer by the City admitting the material allegations of a petition filed against the City in any bankruptcy, reorganization, insolvency, conservatorship, or similar proceeding, or an admission by the City in writing of an inability to pay its, his or her debts as they become due; or

(f) The making by the City of a general assignment for the benefit of creditors; or

(g) A default in the payment of any other indebtedness or the performance of any other obligation of the City to the Lender entitling the Lender to accelerate the maturity thereof or enforce its remedies with respect thereto; or

(h) The dissolution or termination of existence of the City.

6. Remedies. Upon the occurrence of an Event of Default that is not cured in the applicable cure period, if any, Lender may, at its sole discretion and without any further demand or notice, exercise any or all of the remedies provided in the Loan Agreement.

7. Collection. If this Note is placed in the hands of an attorney for collection, by suit or otherwise, or for the protection of the Lender's interest hereunder, the City shall pay all reasonable costs of collection and all court costs and reasonable attorneys' fees, costs and expenses incurred by the Lender, including, but not limited to, all reasonable attorneys' fees, costs and expenses incurred in any bankruptcy proceeding in which the City or any other obligor appears as a debtor.

8. Default Rate. From and after the maturity date hereof or the date of default (in the event of acceleration of the indebtedness evidenced hereby by reason of the City's default or otherwise), the entire indebtedness due hereunder including any accrued interest and late charges shall bear interest at the lesser of ten percent (10%) or the maximum rate of interest allowable under the laws of the state of Arkansas or applicable federal laws (*the "Default Rate"*) until payment in full of all principal and interest, and late payment charges due hereunder are made.

9. Waiver. The City and any endorsers or guarantors hereof severally waive presentment, demand, protest, and notice of protest, demand, dishonor and nonpayment and agree that the Lender or any subsequent holder may, without any obligation on the part of the Lender to do so and without releasing the liability of the City or any endorser or guarantor hereof, grant multiple extensions or renewals hereof in whole or in part, from time to time without notice to any of them, successively or otherwise and for any term or terms and the Lender or any such holder hereof shall not be liable for or prejudiced by the failure to collect or for a lack of diligence in bringing suit under this Note or any renewals or extensions hereof for any default hereunder,

10. Qualified Tax-Exempt Obligation. The City hereby designates this Note as a "qualified tax exempt obligation" for purposes of and within the meaning of Section 265(b)(3) of the Code. The City hereby represents that it reasonably anticipates that it and other entities that issue obligations on behalf of the City will not issue tax exempt obligations (including this Note) that exceed the aggregate principal amount of \$10,000,000 during the calendar year in which this Note is executed and delivered.

11. Usury. It is the intention of the Lender and the City to comply strictly with applicable usury law and, accordingly, the City hereby waives any claim of usury unless such claim is brought to the Lender's attention in writing. In no event, and upon no contingency, shall the holder hereof ever be entitled to receive, collect or apply as interest, any interest, fees, charges, or other payments equivalent to interest, in excess of the maximum effective contract rate which the Lender may lawfully charge under applicable statutes and laws from time to time in effect; and in the event that the holder hereof ever receives, collects, or applies as interest, any such excess, such amount which, but for this provision, would be excessive interest, shall be applied to the reduction of the principal amount of the indebtedness hereby evidenced; and if the principal amount of the indebtedness evidenced hereby, all lawful interest thereon and all lawful fees and charges in connection therewith, are paid in full, any remaining excess shall forthwith be paid to the City, or

other party lawfully entitled thereto. Any provision hereof or any other agreement between the holder hereof and the City, that operates to bind, obligate, or compel the City to pay interest in excess of such maximum effective contract rate shall be construed to require the payment of the maximum rate only. The provisions of this paragraph shall be given precedent over any other provision contained herein, or in any other agreement between the holder and the City that is in conflict with the provisions of this paragraph.

12. Applicable Law; Construction. This Note shall be construed according to the laws of the state of Arkansas and applicable federal laws including without limitation 12 U.S.C. § 1831 (u). If any provision hereof shall be construed to be invalid or unenforceable, the remaining provisions hereof shall not be affected by such invalidity or unenforceability. Each term or provision hereof shall, however, be valid and be enforced to the fullest extent permitted by law.

**THE CITY OF BENTON, ARKANSAS**  
an Arkansas Municipality

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

**ATTEST:**

By: \_\_\_\_\_  
City Clerk

### Payment Schedule

<b>Date</b>	<b>Principal</b>	<b>Interest</b>	<b>Payment</b>
07/30/2021	-	-	-
07/30/2022	124,451.72	18,704.84	143,156.56
07/30/2023	127,986.15	15,170.41	143,156.56
07/30/2024	131,620.95	11,535.60	143,156.55
07/30/2025	135,358.99	7,797.57	143,156.56
07/30/2026	139,203.19	3,953.37	143,156.56
<b>Total</b>	<b>\$658,621.00</b>	<b>\$57,161.79</b>	<b>\$715,782.79</b>



**RESOLUTION NO. 60 OF 2021**

**A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AN AGREEMENT WITH THE BENTON SCHOOL DISTRICT FOR THE OPERATION OF THE HIGH SCHOOL SWIM TEAM AT RIVERSIDE PARK; AND FOR OTHER PURPOSES**

**WHEREAS**, the City Council of the City of Benton, Arkansas, has determined that it is in the best interest of the citizens to enter into a contract with the Benton School District for the use of the River Center Natatorium for operating the high school swim team.

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

**SECTION 1.** The Mayor and City Clerk are hereby authorized to execute, on behalf of the City of Benton, Arkansas, the agreement with the Benton School District that is attached hereto as Exhibit "1" for the operation of the high school swim team at Riverside Park and to execute such other documents as may be necessary or convenient to accomplish the purpose of this resolution.

PASSED AND APPROVED this the \_\_\_\_\_ day of June, 2021.

\_\_\_\_\_  
Tom Farmer, Mayor

\_\_\_\_\_  
Cindy Stracener, City Clerk



**Benton Parks and Recreation Department  
2021 Program Agreement**

This agreement made and entered into on \_\_\_\_\_, 2021 by and between the CITY OF BENTON PARKS AND RECREATION DEPARTMENT, doing business at 1800 Citizens Drive, Benton, Arkansas (hereinafter called "THE CITY"), and Benton High School, doing business at 211 North Border street, Benton, Arkansas (hereinafter called "BHS").

WITNESSETH

WHEREAS, THE CITY maintains property at River Center Natatorium in Benton, Arkansas; and

WHEREAS, the use of said property for the purpose of the BHS has been considered the best use of this property for recreational purpose and to better service the citizens of Benton, Arkansas.

WHEREAS, the City provides and maintains certain recreational facilities for programs and parks in Benton, and

WHEREAS, BHS provides program administration and operations of the High School Swim Team in Benton,

NOW, THEREFORE, in consideration of mutual covenants and promises set forth herein, the parties agree as follows:

THE CITY agrees to grant use of River Center Natatorium between Nov 2<sup>nd</sup>, 2021 and Feb 26<sup>th</sup>, 2022, as outlined here to BHS for the operation of the High School Swim Team.

Named property will be used by BHS for swim meets, practices and try-outs on the dates and times listed on the schedules provided to THE CITY.

The general conditions of this program agreement will be:

1. BHS will operate in accordance with nondiscrimination requirements of Title VI of the 1964 Civil Rights Act.
2. It is further agreed that program personnel must adhere to all provisions of the Americans with Disabilities Act (ADA) that apply to a particular program.
3. Program personnel and participants agree to abide by all Federal, State, and Local laws in addition to the policies of THE CITY pertaining to parks and facilities.
4. It is understood that THE CITY will not be liable for any injuries incurred by participants who are participating in activities on or in THE CITY facility.

- BHS indemnify and hold the City of Benton, its departments and all of its employees harmless against losses, claims, causes of action and liabilities on account of damage to property or injury to or death of persons arising out of negligent acts by BHS, its agents, employees, or program participants.
5. It is agreed that the named facility, area, or property may not be assigned, subleased, rented, reserved or loaned to any other group, business, individual, or entity by BHS without prior approval by THE CITY.
  6. No alterations, changes, or modifications to change the intended use may be made to facilities by BHS, without first receiving written approval from THE CITY. BHS must submit a detailed request in writing to THE CITY'S Park Department.
  7. BHS assumes full responsibility and liability for damage caused by participants of their programs. Any damage caused will be fixed by BHS. If the repair is neglected for a long period of time, THE CITY will make the necessary repairs and bill the BHS.
  8. BHS must inspect facilities prior to each use. If damage is discovered to equipment or that the facility poses an immediate hazard or danger, BHS must immediately notify THE CITY'S Park Department. Damaged equipment or facilities that do not pose a danger or hazard should be discussed with THE CITY. BHS must report any vandalism or theft to THE CITY within 24 hours or next business day.
  9. With this agreement, BHS agrees to pay the charge of \$1,000 for use of the facilities during the agreed times and lane usage for practice purposes and swim meets. Payment must be received by November 1st, 2021.
  10. BHS will be granted use of 3 lanes (lanes 6,7,8) for practice purposes on Monday-Thursday from 7:15-8:15 PM between Nov 2<sup>nd</sup>, 2021 and Feb 26<sup>th</sup>, 2022. In addition WED/FRI from 6-7AM. A tryout will be allowed on Oct 20<sup>th</sup>, 2021 between 7:15 and 8:15 PM. Use of two lanes will be permitted for try-outs.
  11. With this agreement, BHS swimmers MUST present their facility IDs to Park Staff every time they enter the facility and sign in. A team roster must be turned in before November 2<sup>nd</sup>, 2021. The roster must include First Name, Last Name, DOB, address, phone number, email address, emergency contact, and emergency contact phone number.
  12. In order to participate on the BHS Swim Team in practices and meets, BHS swimmers will not be required to be members of the River Center. However, swimmers who are not members may not under any circumstances be in the River Center Natatorium without a high school coach or teacher present in charge of supervising them. When the practice ends, all non-members must leave before the coach or teacher leaves.
  13. BHS is allowed use of the River Center Natatorium and Pool Party Room (with advanced notice) only.
  14. THE CITY will complete meet set up and provide a console operator for \$100 per meet.

15. BHS agrees to host a maximum of 2 swim meets per year for the rates above. Meets will be held on \_\_\_\_\_, 2021/2022.
16. BHS will be responsible for meet cleanup and providing volunteers. There will be a \$50/hour cleaning fee if the facility is not cleaned up after the swim meet.
17. BHS will be responsible for providing their own meet officials, timers, and meet marshals.
18. BHS has the first option to charge admission fees during those meets.
19. BHS will have access to the timing system, starting system, and the scoreboard for the duration of the swim meets under THE CITY supervision. Advertising on scoreboard and hanging sponsor banners requires an approval from THE CITY.
20. BHS will be allowed to promote themselves on scoreboard and with signage around the facility.
21. BHS agrees to return this agreement signed by the appropriate persons, and any and all additional requested material before September 1<sup>st</sup>, 2021.
22. BHS will control all litter by picking up litter their program creates after each time the facility is used. The litter must be placed in the proper receptacle by BHS.
23. BHS will provide proper insurance for the programs they will be operating on city property. Proof of insurance must be attached to this program agreement before regular season starts. BHS understands that their program participants are in no way covered by insurance by THE CITY.
24. BHS will submit contact person(s) for after business hours' emergencies.
25. At the request of THE CITY, BHS will remove all their equipment at the completion of this agreement period.
26. BHS will insure that their employees or participants do not attempt to operate equipment belonging to THE CITY.
27. THE CITY agrees to the following specific conditions and assurances:
  - A. The Natatorium will be maintained on a regular schedule.
  - B. THE CITY will be responsible Monday-Sunday for the pool chemicals.
  - C. THE CITY will purchase and replace light bulbs. If extensive damage is caused by weather or vandalism, the replacement time for lights may be longer than usual.
  - D. THE CITY will attempt to repair damage to facilities in a timely manner, according to repairs needed.
  - E. THE CITY upon written request by the BHS will provide a liaison to the BHS Swim Meetings to assure the maintenance program is satisfactory.
  - F. Permanent improvements to facilities and fields will become property of THE CITY.
  - G. Non-permanent improvements will be retained by BHS Swim Team.

28. The term of this agreement shall be one (1) year, and shall begin on the first day of the month in which this agreement is executed by the parties.
29. This agreement shall automatically be renewed for like terms for successive one (1) year periods until this agreement is terminated by either party.
30. The party electing to terminate this agreement shall do so by providing ninety (90) days written notice before the end of the term of this agreement, of that party's intent not to renew this agreement.
31. THE CITY or BHS may amend this agreement by the mutual assent of both parties.
32. THE CITY may make alterations to practice times and swim meet operations if deemed necessary depending on current situations with COVID-19.

If this agreement is amended, it will be written, signed by both parties stated and attached to this original agreement.

IN WITNESS, WHEREOF the parties hereto have caused this agreement to be executed in their behalf on BHS; and supersede any and/or all previous agreements, contracts, or leases.

City of Benton

A municipal Corporation,

\_\_\_\_\_, Mayor

Parks Department

\_\_\_\_\_ Parks Director

BHS Authorized Representative,

\_\_\_\_\_

Dated this \_\_\_\_ day of \_\_\_\_\_, 2021

**RESOLUTION NO. 61 OF 2021**

**A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AN AGREEMENT WITH THE BENTON SCHOOL DISTRICT FOR THE OPERATION OF THE HIGH SCHOOL TENNIS TEAM AT TYNDALL PARK; AND FOR OTHER PURPOSES**

**WHEREAS**, the City Council has determined that it is in the best interest of the citizens to enter into a contract with the Benton School District for the use of Tyndall Park for the operation of the high school tennis team.

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

**SECTION 1.** The Mayor and City Clerk are hereby authorized to execute, on behalf of the City of Benton, Arkansas, the agreement with the Benton School District that is attached hereto as Exhibit "1" for the operation of the high school tennis team at Tyndall Park and to execute such other documents as may be necessary or convenient to accomplish the purpose of this resolution.

PASSED AND APPROVED this the \_\_\_\_\_ day of June, 2021.

\_\_\_\_\_  
Tom Farmer, Mayor

\_\_\_\_\_  
Cindy Stracener, City Clerk



**Benton Parks and Recreation Department  
2021 Program Agreement**

This agreement made and entered into on \_\_\_\_\_, 2021 by and between the CITY OF BENTON PARKS AND RECREATION DEPARTMENT, doing business at 913 E. Sevier St., Benton, Arkansas (hereinafter called "THE CITY"), and Benton High School, doing business at 211 North Border street, Benton, Arkansas (hereinafter called "BHS").

**WITNESSETH**

**WHEREAS**, THE CITY maintains property at Tyndall Park in Benton, Arkansas; and

**WHEREAS**, the use of said property for the purpose of the BHS has been considered the best use of this property for recreational purpose and to better service the citizens of Benton, Arkansas.

**WHEREAS**, the City provides and maintains certain recreational facilities for programs and parks in Benton, and

**WHEREAS**, BHS provides program administration and operations of the High School Tennis Team in Benton,

**NOW, THEREFORE**, in consideration of mutual covenants and promises set forth herein, the parties agree as follows:

THE CITY agrees to grant use of Tyndall Park between June 1, 2021, and October 30, 2021, as outlined here to BHS for the operation of the High School Tennis Team.

Said property will be used by BHS for tennis matches, practices, and tryouts on the dates and times listed on the schedules provided to THE CITY.

The general conditions of this program agreement will be:

1. BHS will operate in accordance with nondiscrimination requirements of Title VI of the 1964 Civil Rights Act.
2. It is further agreed that program personnel must adhere to all provisions of the Americans with Disabilities Act (ADA) that apply to a particular program.
3. Program personnel and participants agree to abide by all Federal, State, and Local laws in addition to the policies of THE CITY pertaining to parks and facilities.

4. It is understood that THE CITY will not be liable for any injuries incurred by participants who are participating in activities on or in THE CITY facility. BHS will indemnify and hold the City of Benton, its departments, and all of its employees harmless against losses, claims, causes of action, and liabilities on account of damage to property or injury to or death of persons arising out of negligent acts by BHS, its agents, employees, or program participants.
5. It is agreed that the named facility, area, or property may not be assigned, subleased, rented, reserved or loaned to any other group, business, individual, or entity by BHS without prior approval by THE CITY.
6. No alterations, changes, or modifications to change the intended use may be made to facilities by BHS, without first receiving written approval from THE CITY. BHS must submit a detailed request in writing to THE CITY'S Park Department.
7. BHS assumes full responsibility and liability for damage caused by participants of their programs. Any damage caused will be fixed by BHS. If the repair is neglected for a long period of time, THE CITY will make the necessary repairs and bill the BHS.
8. BHS must inspect facilities prior to each use. If damage is discovered to equipment or that the facility poses an immediate hazard or danger, BHS must immediately notify THE CITY'S Park Department. Damaged equipment or facilities that do not pose a danger or hazard should be discussed with THE CITY. BHS must report any vandalism or theft to THE CITY within 24 hours or next business day.
9. With this agreement, BHS agrees to pay the charge of \$0 for use of the facilities during the agreed times and court usage for practice purposes in exchange for THE CITY to run track programming on the BHS Track Complex (Youth Track Clinics, Little Olympians, Family Track Night & Special Olympics Event).
10. BHS will be granted use of 4 courts for practice purposes on Monday-Friday from 3:00 to 5:30 PM between June 1, 2021, and October 20, 2021.
11. A team roster must be turned in before June 1, 2021. The roster must include First Name, Last Name, DOB, address, phone number, email address, emergency contact, and emergency contact phone number, and guardians signature.
12. There will be a \$50/hour cleaning fee if the facility is not cleaned up after any tennis match.
13. BHS agrees to return this agreement signed by the appropriate persons, and any and all additional requested material before June 1, 2021.
14. BHS will control all litter by picking up litter their program creates after each time the facility is used. The litter must be placed in the proper receptacle by BHS.
15. BHS will provide proper insurance for the programs they will be operating on city property. Proof of insurance must be attached to this program



- agreement before regular season starts. BHS understands that their program participants are in no way covered by insurance by THE CITY.
16. BHS will submit contact person(s) for after business hours' emergencies.
  17. At the request of THE CITY, BHS will remove all their equipment at the completion of this agreement period.
  18. BHS will insure that their employees or participants do not attempt to operate equipment belonging to THE CITY.
  19. THE CITY agrees to the following specific conditions and assurances:
    - A. The Tennis Courts will be maintained on a regular schedule.
    - B. THE CITY will purchase and replace light bulbs. If extensive damage is caused by weather or vandalism, the replacement time for lights may take longer than usual.
    - C. THE CITY will attempt to repair damage to facilities in a timely manner, according to repairs needed.
    - D. Permanent improvements to facilities and fields will become property of THE CITY.
    - E. Non-permanent improvements will be retained by BHS Tennis Team.
  20. The term of this agreement shall be one (1) year, and shall begin on the first day of the month in which this agreement is executed by the parties.
  21. This agreement shall automatically be renewed for like terms for successive one (1) year periods until this agreement is terminated by either party.
  22. The party electing to terminate this agreement shall do so by providing ninety (90) days written notice before the end of the term of this agreement, of that party's intent not to renew this agreement.
  23. THE CITY or BHS may amend this agreement by the mutual assent of both parties.

If this agreement is amended, it will be written, signed by both parties stated and attached to this original agreement.

IN WITNESS, WHEREOF the parties hereto have caused this agreement to be executed in their behalf on BHS; and supersede any and/or all previous agreements, contracts, or leases.

City of Benton

A municipal Corporation,

---

Tom Farmer, Mayor

Parks Department

---

Stephanie Jones, Benton Parks Director

BHS Authorized Representative,

---

Dated this \_\_\_\_ day of \_\_\_\_\_, 2021

**RESOLUTION NO. 62 OF 2021**

**A RESOLUTION AUTHORIZING THE CITY TO ENTER INTO A CONTRACT WITH CARL WEST FOR THE PROVISION OF CERTAIN RECREATIONAL SERVICES TO THE CITIZENS OF BENTON; AND FOR OTHER PURPOSES**

**WHEREAS**, the City Council of the City of Benton, Arkansas, has as a function of city government, an obligation to provide appropriate recreation services for all ages in our community; and

**WHEREAS**, in order to fulfill that obligation, the City desires to enter into an agreement with Carl West for the provision of services to run and direct an adult softball program.

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

**SECTION 1.** The Mayor and City Clerk are hereby authorized to execute, on behalf of the City of Benton, Arkansas, a one (1) year agreement with Carl West to run and direct an adult softball program located at Bernard Holland Park, Adult Fields. The contract is attached hereto as Exhibit "1" and is incorporated now by reference as if stated word for word.

PASSED AND APPROVED this the \_\_\_\_\_ day of June, 2021.

\_\_\_\_\_  
Tom Farmer, Mayor

\_\_\_\_\_  
Cindy Stracener, City Clerk



## LEASE AGREEMENT

THIS AGREEMENT made and entered into on \_\_\_\_\_, \_\_\_\_, 2021 by and between the CITY OF BENTON, (hereinafter called "THE CITY"), and Carl West (hereinafter called "West").

NOW THEREFORE THE PARTIES HERETO AGREE AS FOLLOWS:

### **I. General Terms:**

1. LEASED PREMISES: The leased premises are the Bernard Holland Adult Softball Fields within the City of Benton and consists of Fields One through Three ("Leased Premises"). The leased premises do not include any portion of Riverside Leased Premises or the concessions stand(s).

2. USE OF THE PARK BY THE CITY: THE CITY shall have the right to use the Leased Premises upon scheduling with West as set out in Paragraph No. 3. THE CITY shall have use of the Leased Premises for no less than 16 weekends per year, not including Wally Hall dates, to be scheduled with West by April 30 for spring and August 31 for fall, of the applicable year. THE CITY shall otherwise have use of the Leased Premises subject to scheduling and availability with West. THE CITY will provide the following during the term of this agreement:

- a. THE CITY shall provide all utilities to the Leased Premises.
- b. THE CITY will set lights for all approved scheduled games and practices taking place at the Leased Premises.
- c. Provide daily clean-up before and after games at the Leased Premises.
- d. THE CITY has full discretion of playability of fields and will have the right to close in the event of inclement weather.
- e. THE CITY shall drag, chalk, set bases and mounds before the first game of each day.
- f. Maintain the Leased Premises in a neat, well-groomed condition.
- g. Winterize the Leased Premises at appropriate times.

h. THE CITY shall provide complete maintenance and replacement, as and when necessary, of all facilities located at the Leased Premises, including but not limited to: concession and equipment buildings, parking lots, drainage, restrooms, fences, backstops, dugouts, gates, batting cages, lights, poles, switchgear and bleachers.

3. USE OF THE LEASED PREMISES BY WEST: Except as stated herein, West shall have exclusive use of the Leased Premises during the year for the purpose of West's league games, practices, tournaments, or other similar use. West must provide a schedule for games and practices with a minimum seven (7) days' notice. If that notice is not provided, the fields may not be prepared as set out in Section 2.e. herein. Subject to availability, upon at least a fourteen (14) day notice to West, THE CITY may make reasonable use of the Leased Premises at no cost. Such times are first subject to availability of the Leased Premises but permission to use the Leased Premises will not be unreasonably withheld. All tournament organizations will be required to pay to THE CITY all field rental fees, deposits and costs for any tournament scheduled by West. All requests for the use of the Leased Premises for a tournament will require at least a fourteen (14) day notice to THE CITY from West. Any event scheduled on Friday, Saturday or Sunday is considered by the city a tournament and will be charged accordingly.

a. West shall receive all gate receipts and sign-up fees for the operation of his program.

b. Provide all uniform and playing equipment.

c. Provide insurance for players and umpires.

d. Provide umpires.

f. Stripe or otherwise maintain fields in between games.

4. EXPECTATIONS OF WEST:

a. West shall make all efforts to increase the number of individuals participating in the league.

b. West shall make maximum use of the Leased Premises, including hosting at least twelve (12) games per night, Monday through Thursday, during the league season.

c. West shall make all efforts to ensure that a family-friendly atmosphere is maintained at all league events that take place at the Leased Premises, including any associated parking lot. Drinking shall not be tolerated.

d. It is expected that West shall take all actions to ensure league participants, or their guests, will comply with all applicable laws or rules and regulations of the Leased Premises. If necessary, West shall hire appropriate security to ensure compliance.

5. COLLECTION OF FIELD RENTAL FEES: THE CITY shall be entitled to set and collect all field rentals during its usage of the Leased Premises, as defined in Paragraph 2. West shall not have a right to any of these funds. West is responsible to schedule and follow guidelines in the City's lease agreement for all tournament events. Scheduling is coordinated with Special Events Coordinator or appropriate Benton Parks Staff.

6. OPERATION OF THE CONCESSION STAND: THE CITY shall continue its operations of the concession stand, in accordance with existing contracts.

7. WALLY HALL TOURNAMENT OF CHAMPIONS: With respect to the Wally Hall Tournament of Champions, the tournament organization shall have the right to four (4) weekends during the year for this event to occur. These weekends include the first weekend in March, the first weekend in April, the first weekend in May and Memorial Day weekend. The tournament organization shall be required to pay all applicable deposits, fees, and costs as required of other tournaments to THE CITY.

8. CANCELATION OF TOURNAMENTS: Should any tournament organization fail to abide by the rules established by the Benton City Council for the use of its parks or should a tournament organization fail to fulfill its contractual obligations to THE CITY, THE CITY may in its sole discretion cancel any tournament associated with the tournament organization and not renew same.

9. SUPPLIES AND MATERIALS FOR OPERATING PARK: THE CITY shall supply the materials and supplies necessary to operate the fields and restrooms in the Leased Premises. This includes but is not limited to paper products, soap, chalk, conditioner, etc.

10. NO JOINT VENTURE: It is agreed that THE CITY has no financial interest in the business of West and shall not be liable for any debts or obligations incurred by West, nor shall THE CITY be deemed or construed to be a partner, joint venture, or otherwise interested in the assets of the West, or profits earned or derived by the West, nor shall West at any time or times use the name or

credit of THE CITY in purchasing or attempting to purchase any equipment, supplies, or other thing or things whatsoever.

11. INDEPENDENT CONTRACTOR: West, in the performance of his operation and obligations hereunder, shall be deemed to be an independent contractor in every respect and shall take all steps at its own expense as THE CITY may from time-to-time request to indicate that West is an independent contractor. THE CITY does not and will not assume any responsibility for the means by which or manner in which by West shall be wholly responsible, therefore.

12. CITY'S USE: THE CITY shall have the right to use the Leased Premises at its discretion upon fourteen (14) days notification to West. Any request of THE CITY to use the Leased Premises with less than a fourteen (14) day notice shall be at the discretion of West to grant.

13. PUBLIC ACCESS: The Leased Premises shall be open to the public and access to the recreational services provided herein shall be restricted only in ways THE CITY might if it were providing the services itself.

14. NONDISCRIMINATION: West will operate programs in accordance to nondiscrimination and requirements of Title VI of the 1964 Civil Rights Act. West will comply with all federal, state, and local laws, including but not limited to the Arkansas Nonprofit Act of 1993. West will also abide by the rules and regulations that are adopted or may be adopted by THE CITY for its parks and recreation areas.

15. FULL PARTICIPATION: It is agreed that the programs for which this agreement is written must be made available to the general public to join and participate in and shall be restricted only in ways THE CITY might if it were providing the services itself. It is also agreed that the party sponsoring any community recreation program will furnish and supply all expendable materials necessary for conducting the program.

16. ADA COMPLIANCE: It is further agreed that program personnel must adhere to all provisions of the Americans with Disabilities Act (ADA) that apply to a particular program.

17. COMPLIANCE WITH APPLICABLE LAW: Program personnel and participants agree to abide by all Federal, State, and Local laws in addition to the policies of THE CITY pertaining to parks and facilities.

18. NO SUBLEASE OR ASSIGNMENT: It is agreed that the Leased Premises may not be assigned, sub-leased, rented, reserved or loaned to any other group, business, individual, or entity by West.

19. NO CHANGES TO FACILITIES: No alterations, changes, or modifications to change the intended use may be made to the Leased Premises by West, without first receiving written approval from THE CITY. West must submit a detailed request in writing to THE CITY.

20. INSPECTIONS PRIOR TO USE: West must inspect the Leased Premises prior to each use. If damage is discovered to equipment of the Leased Premises that poses an immediate hazard or danger then West must immediately notify THE CITY. Damaged equipment or facility that does not pose a danger or hazard should be discussed with THE CITY. West must report any vandalism or theft to THE CITY within 24 (twenty-four) hours or next business day.

21. LITTER: West will control all litter by picking up litter his program creates. The litter must be placed in the proper receptacle by WEST and then be removed on a regular basis by a contracted trash service. If excessive litter must be picked up after 24 hours of the program by THE CITY, West will be charged \$10 for each individual man hour worked.

22. DAMAGE TO UTILITIES: West is responsible for costs of repair and/or replacement of facilities or infrastructure due to weather damage to water lines, pumps, etc. if West requests that the water be turned on before THE CITY deems acceptable due to weather conditions.

23. REMOVAL OF EQUIPMENT: At the request of CITY, West will remove all his equipment that is not a fixture to the Leased Premises, at the termination of this agreement. The Parties may agree to extend the time for removal of non-fixture type items by separate written instrument.

24. KEYS: Two keys to the Leased Premises will be given to West. No Duplicate keys shall be made or given out to any other parties.

25. PERMANENT IMPROVEMENTS: Permanent improvements to The Leased Premises will become property of THE CITY. Permanent fixtures include, but are not limited to all: concrete work, fences, underground installations, sprinkler heads, structural work, lighting fixtures, and drinking fountains.

26. SCHEDULING: West shall schedule use of the Softball Fields with THE CITY's Parks Department Director and/or Recreation Manager. The parties agree to use their best efforts to accommodate the needs of the other to providing softball activities and events for the Benton community.

## **II. Verification and Correspondence Requirements:**

1. VERIFICATION: West shall upon request verify its programs to THE CITY to ensure that it is operating an adult program within the Leased Premises in fulfillment of his obligations, which are more fully stated herein.

2. NOTICES: Notices and reports required or permitted herein shall be in writing and shall be deemed delivered when actually received by the parties at the addresses described below:



- i. Mayor, City of Benton, 114 South East Street, Benton, AR 72015
- ii. Carl West

3. CHEMICALS: West agrees to provide a list of any bulk chemicals used and/or stored at the facility during their program agreement. This list must include a MSDS for each chemical listed and West must insure that each chemical is properly stored according to MSDS specifications. THE CITY must be made aware of the intention to use any form of chemical prior to its use or storage in the facility.

4. DIGGING: West must notify THE CITY prior to any digging in the Leased Premises area. The extensive underground wiring must be marked by THE CITY and One Call before any digging can begin. If this procedure is not followed and as a result any lines in the Leased Premises are damaged, West will be responsible to pay for the cost of any and all repairs to the damaged lines.

### **III. Insurance and Liability Requirements:**

1. INSURANCE: West shall maintain insurance in amounts required by federal or state laws and hereby agrees to indemnify and hold harmless THE CITY from any claims, lawsuits, judgments, or settlements brought as a result of the performance of this Agreement or West's provision of services hereunder. THE CITY hereby agrees to indemnify and hold harmless West from any claims, lawsuits, judgments, or settlements brought as a result of the performance of this Agreement.

2. LIABILITY: West assumes full responsibility and liability for damage caused by participants of their programs. Any damage caused will be fixed by West. If the repair is neglected for a long period of time THE CITY will make the necessary repairs and bill West.

3. INDEMNITY: It is understood that THE CITY will not be liable for any injuries incurred by participants who are participating in activities on or in the Leased Premises. West shall indemnify and hold THE CITY, THE CITY of Benton, and all of its employees harmless against losses, claims, causes of action, and liabilities on account of damage to property or injury to or death of persons arising out of negligent acts by West, its agents, employees, or programs participants.

### **IV. Severability, Authorization, and Enforceability:**

1. SEVERABILITY: In the event any clause, phrase, provision, sentence, or part of this agreement or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this agreement as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional.

2. INTERPRETATION: In the event of any ambiguity in any of the terms of this Agreement, it shall not be construed for or against any party hereto on the basis that such party did or did not author the same.

3. TERMINATION: THE CITY may terminate this agreement with 30 days' notice upon a finding, by a 2/3 vote by City Council, that the consideration provided by West in regard to provision of services is not being adequately fulfilled, adequately met, or otherwise adequately accomplishing the goals of this program agreement. To effectuate this paragraph's provision, THE CITY Council shall during a regular or special meeting adopt a Resolution of Intent to terminate this program agreement by a 2/3 vote of the Council. THE CITY agrees that any such vote must occur before the 90-day written notice can be submitted. THE CITY agrees that for THE CITY Council to take such an action, all notice provisions under Arkansas Law for regular or special meetings must be complied with prior to any such meeting calling for such Resolution to exercise this paragraph's provision. Further, THE CITY shall notify, via the notification provisions within this agreement, the Director of the West of the Resolution of Intent to terminate this program agreement at least 48 hours before any Council Meeting to vote on such Resolution of Intent to terminate.

4. VIOLATION OF AGREEMENT: If West violates any provision of this agreement, this agreement may be terminated with 10 days' notice; however, THE CITY reserves the right to provide 10 days for West to correct the violation at THE CITY's reasonable discretion. If City funds or facilities are used fraudulently, fraudulently accounted for, fraudulently spent, or otherwise illegally disposed of, THE CITY may terminate this agreement with 10 days' notice. THE CITY reserves the right to provide West 10 days to remedy the illegal or fraudulent use of City funds, but THE CITY has no obligation to allow such remedy period. Any termination or opportunity to remedy under this paragraph shall occur after THE CITY Council votes to terminate or allow remedy of the violation. Any Council action will be at a regular or special called meeting and only after appropriate notice of such Council meeting is provided for under Arkansas Code and City Resolutions governing the calling of meetings.

5. TERM OF AGREEMENT: This agreement shall be in effect from the date of its execution and terminating on December 31, 2021. If THE CITY has a need to provide services and assuming that the use of the Leased Premises by the WEST is in the best interest of THE CITY at the end of the initial term, it is anticipated that the agreement will be renewed for an additional year term by Resolution of the City Council to continue allowing the WEST to provide services in THE CITY through utilization of the Leased Premises as defined herein. Nothing herein shall be construed as legally obligating THE CITY to renew the Program Agreement for an additional term.

6. CURRENT PROGRAMMING: West acknowledges and agrees that this agreement does not pertain to and does not alter the currently scheduled Spring 2021 Softball season, which is set to begin on April 12, 2021, and end on June 17, 2021. That season shall be completed as currently planned by THE CITY and as scheduled.

7. CHANGES: Any changes in programs by West will be provided to THE CITY via a written notice provided at least 30 days prior to any such change in program or use of the facilities governed under this Use Agreement.

8. MODIFICATIONS: Any amendment, alterations, or changes in this agreement, other than as provided for herein above will only be effective by the mutual assent of both parties and will be effective when reduced to writing signed by both parties and attached to this original agreement.

IN WITNESS WHEREOF the parties hereto have caused this Agreement to be executed on their behalf and supersede any and/or all previous agreements, contracts, or leases.

Dated this the \_\_\_\_ day of June, 2021.

CARL WEST

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

Carl West

CITY OF BENTON

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

Mayor

Attest:

\_\_\_\_\_

City Clerk

**RESOLUTION NO. 63 OF 2021**

**A RESOLUTION AUTHORIZING THE CITY TO APPLY  
FOR A GRANT WITH THE INTERNATIONAL MOUNTAIN  
BICYCLING ASSOCIATION FOR A MOUNTAIN BIKE  
PARK DESIGN; AND FOR OTHER PURPOSES**

**WHEREAS**, the City of Benton, Arkansas seeks to improve the recreation facilities within the City, and to do so, it wishes to seek grant funding assistance;

**WHEREAS**, in order to obtain the funds necessary to develop a design for such a recreation area, it is necessary to obtain a Trail Accelerator Grant from the International Mountain Bicycling Association;

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

**WHEREAS**, the City Council understands the grantee and grantor will enter into a binding agreement that obligates both parties to the policies and procedures contained within the Trail Accelerator Grant Guide. The City Council is aware and apprised of the above-mentioned project and will provide the local portion of the development cost of the project.

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

**SECTION 1.** That the Mayor and City Clerk are hereby authorized to execute the necessary documents to make application to the International Mountain Bicycling Association for a grant and other available assistance to develop recreational facilities for the City.

PASSED AND APPROVED this the \_\_\_\_\_ day of June, 2021.

\_\_\_\_\_  
Tom Farmer, Mayor

\_\_\_\_\_  
Cindy Stracener, City Clerk

**ORDINANCE NO. 35 OF 2021**

**AN ORDINANCE VACATING AND CLOSING DALE AVENUE IN THE  
CITY OF BENTON; AND FOR OTHER PURPOSES**

**WHEREAS**, a petition was duly filed with the City Council of the City of Benton, Arkansas, on the 24<sup>th</sup> day of May, 2021, asking the City Council to vacate and abandon the portion of Dale Avenue that ends in front of Benton Utilities; and

**WHEREAS**, after due notice as required by law, the Council has, at the time and place mentioned in the notice, heard all persons desiring to be heard on the question and has ascertained that Dale Avenue, hereinbefore described, has heretofore been dedicated to the public use as a street herein described; has not actually been in use by the public subsequent to filing to the plat; that all the owners of the property abutting upon the street to be vacated have filed with the council their written consent to the abandonment; and that the public interest and welfare will not be adversely affected by the abandonment of Dale Avenue.

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

**SECTION 1.** The City of Benton, Arkansas, releases, vacates, and abandons all its right, together with the rights of the public generally, in and to the end of Dale Avenue in front of Benton Utilities, with the exception of dedicated utility easements, designated as follows:

Dale Avenue, beginning at the western boundary of 1827 Dale Avenue.

**SECTION 2.** A copy of this ordinance duly certified by the City Clerk shall be filed in the Office of the Circuit Clerk of Saline County, Arkansas, and recorded in the deed records of Saline County, Arkansas.

PASSED AND APPROVED this \_\_\_\_ day of June, 2021.

\_\_\_\_\_  
Tom Farmer, Mayor

\_\_\_\_\_  
Cindy Stracener, City Clerk

DESIGNATED FOR PUBLICATION

**ORDINANCE NO. 36 OF 2021**

**AN ORDINANCE TO CREATE THE POSITION OF ASSISTANT  
DIRECTOR OF STREETS; AND FOR OTHER PURPOSES**

**WHEREAS**, the City of Benton has determined that the needs of the Street Department is to have an Assistant Director to handle the job duties required for the department.

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

**SECTION 1.** The City Council does hereby adopt the job description of Street Department Assistant Director attached hereto as Exhibit 1 and incorporated herein as if stated word for word, the job description of Assistant Director of Streets and does amend the Wage Structure adopted in Ordinance 1 of 2021, consistent with Exhibit 2, which is attached hereto and incorporated herein as if stated word for word. The new job description and wage structure shall become effective August 1, 2021.

**SECTION 2.** If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect the other provisions or applications of this ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this ordinance are hereby declared to be severable. All ordinances in conflict herewith are repealed to the extent of the conflict but not otherwise, including Ordinance 97 of 2019, Ordinance 70 of 2020 and Ordinance 1 of 2021.

PASSED AND APPROVED this the \_\_\_\_\_ day of June, 2021.

\_\_\_\_\_  
Tom Farmer, Mayor

\_\_\_\_\_  
Cindy Stracener, City Clerk

**CITY OF BENTON, ARKANSAS  
JOB DESCRIPTION**



<b>Job Title:</b> Street Department Assistant Director	<b>Reports To:</b> Street Director
<b>Department:</b> Street	<b>Pay Grade:</b> 49,789.00 - 65,360.40
<b>Division:</b> Street	<b>FLSA Status:</b> Exempt
<b>Direct Reports:</b> Street Department Director	<b>EEO Category:</b> Officials and Administrators

### **GENERAL DESCRIPTION OF POSITION**

The Street Department Assistant Director assists in the planning, coordinating and directing of the operations and services of the Municipal Street Department in compliance with City ordinances/policies and applicable Federal, State and Municipal regulatory guidelines, rules and regulations.

### **ESSENTIAL DUTIES AND RESPONSIBILITIES**

- Organizes, assigns, schedules and directs department operations and services to include construction, reconstruction, and required maintenance of streets, alleys, sidewalks, bridges, storm sewers, curbs, catch basins, gutters, etc.;
- Maintains daily master sheet listing crews, location and type of work being performed, including emergency street repair;
- Sets up work zone safety, conducts inspection of job sites to ensure correct work performance;
- Notifies Arkansas One-Call for utility locates before performing digging operations;
- Provides technical information and expertise as required in the implementation of special projects, or in special situations with regular programs;
- Supervises operation, allocation and maintenance of department equipment and materials;
- Assists with the requisitions for new materials, supplies and makes recommendations for major modifications to existing equipment and/or purchase of new or specialized equipment;
- Conducts on-site inspections of all construction and reconstruction work performed under private contract;
- Inspects installation of improvements in new subdivisions to ensure compliance with City regulations;
- Participates in reviews bids and recommends award based on compliance with specifications;
- Receives and responds to citizen complaints and requests for information regarding department projects/services, and responds to emergency situations;
- Recommends new procedures and methods for improving overall effectiveness and efficiency of department;
- Assists in the preparation of the annual departmental budget and reviews/monitors expenses as necessary;
- Prepares reports as needed;
- Attends meetings and confers with staff, affected City departments and outside agencies regarding long-range and special projects involving street and drainage maintenance as needed;
- Attends City Council meetings and related committee meetings as needed;
- Meets with City Council Drainage Committee relative to flooding issues on private property and coordinates with Community Services Supervisor for remedial abatement, scope of work, bid process with private contractors, and monitoring of work as needed;
- Assists in the documentation process for FEMA claims as necessary;
- Oversees installation or malfunction and necessary repair for electronic traffic signals;
- Remains subject to call-out and increased work hours during periods of inclement weather;
- Notifies local press, businesses, residents, and website management of street closings and traffic detours as needed;
- Remains current City ordinances/policies and Federal, State and Municipal statutes, guidelines, rules and regulations;
- Remains current on the latest developments in construction and technology;
- Other duties as assigned.

**CITY OF BENTON, ARKANSAS  
JOB DESCRIPTION**

**QUALIFICATIONS**

- High School Diploma or GED;
- Associate's degree (A.A.) in Civil Engineering preferred;
- Five (5) years progressively responsible experience in public works activities;
- Three (3) years' experience supervising labor and equipment operations;
- Formal training or education in Civil Engineering is desired;
- Erosion, Sediment and Storm Water Inspector Certification preferred;
- Knowledge of construction, maintenance and repair for street and drainage systems;
- Knowledge of equipment, tools and materials used in street and drainage systems construction/repair and proper maintenance techniques;
- Knowledge of civil engineering practices and principles;
- Knowledge of erosion, sediment and storm water;
- Excellent communication skills;
- Excellent organizational skills;
- Proficiency in MS Word and Excel;
- Valid Driver's License.

**RESPONSIBILITY FOR FUNDS, PROPERTY and EQUIPMENT**

Up to \$25,000,000

**PHYSICAL ACTIVITIES**

The following physical activities described here are representative of those that must be met by an employee to successfully perform the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions and expectations. While performing the functions of this job, the employee is continuously required to talk or hear; frequently required to walk, sit, reach with hands and arms; and occasionally required to stand, climb or balance, stoop, kneel, crouch, or crawl. The employee must occasionally lift and/or move up to 80 pounds. Specific vision abilities required by this job include close vision; and color vision.

**ENVIRONMENTAL CONDITIONS**

The following work environment characteristics described here are representative of those an employee encounters while performing essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

The noise level in the work environment is usually moderate. The employee occasionally works outside in adverse weather conditions, in an office environment and near moving mechanical part.

*This job description should not be interpreted as all-inclusive. It is intended to identify the essential functions and minimum qualifications of this job. The incumbent(s) may be required to perform job-related responsibilities and tasks other than those stated in this job description. Nothing in this job description restricts management's right to assign or reassign job-related responsibilities and tasks to this job at any time. Certain functions are understood to be essential; these include, but are not limited to, attendance, getting along with others, and dealing with and working under stress. Any essential function of this class will be evaluated as necessary should an incumbent/applicant be unable to perform the function or requirement due to a disability as defined by the Americans with Disabilities Act (ADA). Reasonable accommodation for the specific disability will be made for the incumbent/applicant when possible.*



## Streets - Option 2

Functional Area	#	Position	Current						Proposed					
			Hourly Base			Annualized Base			Hourly Base			Annualized Base		
			Min	Mid	Max	Min	Mid	Max	Min	Mid	Max	Min	Mid	Max
<b>Exempt</b>														
Street Department	1	Street Department Director	\$ -	\$ -	\$ -	\$ 51,000.00	\$ 68,000.00	\$ 80,000.00						
Street Department	1	Asst. Director	\$ -	\$ -	\$ -	\$ 49,789.00	\$ 68,459.60	\$ 79,619.00						
<b>Non-Exempt</b>														
Street Department	1	Administrative Assistant	\$ 11.79	\$ 14.67	\$ 17.56	\$ 24,520.00	\$ 30,520.00	\$ 36,520.00	\$ 12.29	\$ 15.17	\$ 18.06	\$ 25,563.20	\$ 31,560.00	\$ 37,560.00
Street Department	1	Construction Inspector	\$ 17.25	\$ 21.92	\$ 26.08	\$ 35,880.00	\$ 45,593.60	\$ 54,244.80	\$ 17.75	\$ 22.42	\$ 26.58	\$ 36,920.00	\$ 46,633.60	\$ 55,284.80
Street Department	3	Equipment Operator	\$ 15.25	\$ 18.37	\$ 21.49	\$ 31,720.00	\$ 38,209.60	\$ 44,699.20	\$ 15.75	\$ 18.87	\$ 21.99	\$ 32,760.00	\$ 39,249.60	\$ 45,739.20
Street Department	1	Mechanic	\$ 16.56	\$ 20.56	\$ 23.83	\$ 34,444.80	\$ 42,764.80	\$ 49,566.40	\$ 17.06	\$ 21.06	\$ 24.33	\$ 35,484.80	\$ 43,804.80	\$ 50,606.40
Street Department	5	Laborer	\$ 11.85	\$ 14.72	\$ 17.76	\$ 24,648.00	\$ 30,626.20	\$ 36,937.40	\$ 12.35	\$ 15.22	\$ 18.26	\$ 25,688.00	\$ 31,666.20	\$ 37,977.40
Street Department	3	Truck Driver	\$ 15.25	\$ 18.37	\$ 21.49	\$ 31,720.00	\$ 38,209.60	\$ 44,699.20	\$ 15.75	\$ 18.87	\$ 21.99	\$ 32,760.00	\$ 39,249.60	\$ 45,739.20
Street Department	2	Stormwater Inspector	\$ 17.25	\$ 21.92	\$ 26.08	\$ 35,880.00	\$ 45,593.60	\$ 54,244.80	\$ 17.75	\$ 22.42	\$ 26.58	\$ 36,920.00	\$ 46,633.60	\$ 55,284.80
<b>Not in 2021 budget</b>														
Street Department	0	Stormwater Supervisor	\$ 18.62	\$ 22.08	\$ 29.77	\$ 38,729.60	\$ 45,926.40	\$ 61,921.60	\$ 19.12	\$ 22.58	\$ 30.27	\$ 39,769.60	\$ 46,966.40	\$ 62,961.60

## Streets &amp; SW - Option 2

The effect of the raise for the non-exempt employees in the 2021 budget is a \$21,180.21 difference

- all non-exempt positions range increased \$.50

Street Fund	\$	884,582.64
Stormwater Fund	\$	129,398.98
Difference	\$	21,180.21

tables

EXHIBIT

2

**ORDINANCE NO. 37 OF 2021**

**AN ORDINANCE AMENDING ORDINANCE NO. 60 OF 2019 NET METERING RULES FOR BENTON UTILITIES ELECTRIC DEPARTMENT; DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES**

**WHEREAS**, the Arkansas legislature adopted the Arkansas Renewable Energy Development Act ("AREDA"), codified at Ark. Code Ann. § 23-18-601, et seq.;

**WHEREAS**, the Arkansas legislature adopted significant amendments to AREDA through the adoption of Act 827 of 2015;

**WHEREAS**, pursuant to Ark. Code Ann. §§ 14-54-701, 14-200-112 and 23-18-504, the City Council is and was the appropriate regulatory body to implement AREDA in the Benton Utilities service territory;

**WHEREAS**, the City Council passed Ordinance No. 60 of 2019 ("Net-Metering Ordinance"), on July 22, 2019, which included Benton Utilities Net Metering Rules and Regulations ("Net-Metering Rules");

**WHEREAS**, since the City Council passed the Net-Metering Ordinance, opportunities for interested parties, including local governments, to utilize renewable energy and net-meter have presented themselves, requiring a revision to the Net-Metering Ordinance;

**WHEREAS**, the City Council and Benton Utilities seek to ensure that the City of Benton has a desirable business climate and is a good partner for local businesses as well as other local governments within Saline County;

**WHEREAS**, the City Council and Benton Utilities also have an obligation to the Benton Utilities ratepayers to ensure the Net-Metering Rules protect the reliable operation and safety of the Benton Utilities' distribution system, maintain affordable rates, serve the renewable energy interests of customers, and comply with AREDA; and

**WHEREAS**, any prior ordinance(s) or Net-Metering Rules in conflict with this and the rules included in this ordinance should be repealed and replaced.

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

**SECTION 1.** That the Benton Utilities Net-Metering Rules (attached hereto as Exhibit "A" and incorporated by reference) providing for the parallel interconnection and operation of customer-owned renewable energy electric generators with the Benton Utilities distribution system are hereby approved and adopted.

**SECTION 2.** That all other ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of the conflict.

**SECTION 3.** That the provisions of this Ordinance are hereby declared to be severable and if any section, phrase, or provision shall be declared or held invalid, such invalidity shall not affect the remainder of the sections, phrases or provisions.

**SECTION 4.** It is hereby found and determined that the adoption of this Ordinance is immediately necessary to ensure the orderly growth and development of renewable energy generation in the City of Benton and is necessary for the immediate preservation of the public health, safety and welfare; THEREFORE, an emergency is hereby declared to exist, and this Ordinance shall be in full force and effect from and after its passage and approval.

PASSED AND APPROVED this \_\_\_\_\_ day of June, 2021.

\_\_\_\_\_  
Tom Farmer, Mayor

\_\_\_\_\_  
Cindy Stracener, City Clerk

**ORDINANCE NO. 38 OF 2021**

**AN ORDINANCE REZONING 603 N. MARKET STREET IN THE CITY OF BENTON, SALINE COUNTY ARKANSAS, FROM C1 NEIGHBORHOOD COMMERCIAL TO TC2 TOWN CENTER ZONE; AND FOR OTHER PURPOSES**

**WHEREAS**, an application for rezoning was filed with the Planning Commission of the City of Benton, Arkansas, requesting that the land hereinafter described located at 603 N. Market Street in the City of Benton be rezoned from C1 to TC2;

**WHEREAS**, the Planning Commission ordered a public hearing be held on June 1, 2021 at 6:00 p.m. for the purpose of hearing said application; the notice of such hearing having been published in a newspaper having a bona fide circulation in Saline County, Arkansas, with evidence having been submitted that all property owners or lessees within 300 feet of the property having been notified of said hearing; and at said hearing, the Planning Commission recommended to the City Council that such request be granted; and

**WHEREAS**, the City Council of the City of Benton, Arkansas desires to rezone the following property from C1 to TC2.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BENTON, ARKANSAS;**

**SECTION 1.** The following described property is hereby rezoned from C1 Neighborhood Commercial to TC2 Town Center Zone:

603 N. Market Street, Benton, Arkansas 72015  
Parcel Number: 800-50562-000

PASSED AND APPROVED, this \_\_\_\_\_ day of June, 2021.

\_\_\_\_\_  
Tom Farmer, Mayor

\_\_\_\_\_  
Cindy Stracener, City Clerk

CITY OF BENTON  
COMMUNITY DEVELOPMENT DEPARTMENT



Jessica Teague  
Planner  
Phone: (501) 776-5938  
Email: [jessica.teague@bentonar.org](mailto:jessica.teague@bentonar.org)



114 South East Street  
Benton, Arkansas 72015  
Fax: (501) 776-5922  
Web: [www.bentonar.org](http://www.bentonar.org)

MEMORANDUM

TO: Brian Black/Eric Rytima  
Planning Commission

FROM: Jessica Teague  
Community Development

DATE: May 27, 2021

RE: Rezone Request for 603 N Market Street

---

The applicant is requesting a rezone of 603 N Market Street from C1-Neighborhood Commercial to TC2-Town Center Zone. All requirements have been met in accordance with City Ordinance. City and Benton Utilities Staff comments have been provided in the packets and recommend approval.

Please contact the Community Development Office if we may be of further assistance.

Tuesday, June 01, 2021				
603 N Market Street Rezone				
	Voter		YES	NO
1	Chairman	Brian Black	<input type="checkbox"/>	<input type="checkbox"/>
2	Vice Chairman	Eric Rytima	<input type="checkbox"/>	<input type="checkbox"/>
3	Member	Lois Burks	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4	Member	Mark Chilton	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5	Member	Stephanie Griffin	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6	Member	Johnise Lawani	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7	Member	Jim Stilwell	<input checked="" type="checkbox"/>	<input type="checkbox"/>
8	Member	Carl West	<input type="checkbox"/>	<input type="checkbox"/>
9	Member	Darrell Wood	<input checked="" type="checkbox"/>	<input type="checkbox"/>

6-0

Nomination
Motion <i>Wood</i>
Second <i>Stilwell</i>

Nomination
Motion
Second

## Jessica Teague

---

**From:** Jessica Teague  
**Sent:** Friday, May 21, 2021 1:55 PM  
**To:** eric@richardson-engrs.com  
**Subject:** DRC Comments for 603 N Market Rezone

Good afternoon Eric,

Below are comments I have received regarding 603 N Market Rezone. Please address all comments and corrections and resubmit revised plans to the Community Development Office. Also, please let me know if you have any questions or concerns.

**Community Development:**

- Approves
- Will be on the June 1<sup>st</sup> Planning Agenda

**Electric Department:**

- Benton Electric approves

**Fire Marshal:**

- Fire approves

**Street Department:**

- Streets and Drainage approves

**Wastewater Conveyance Department:**

Wastewater Conveyance approves the rezone at 603 N. Market.

- This department is not responsible for any building service lines that may be in conflict with the development with this rezone.
- This department is not responsible for any sewer easements or sewer mains that might have been missed in survey that might cause issues with development with this rezone.

**Water Department:**

- Water department approves this rezone.

Thank you.

Sincerely,

*Jessica Teague*

Planner  
Community Development  
114 South East Street  
Benton, AR 72015  
Office: 501-776-5938, ext. 116  
Cell: 501-249-8218  
Fax: 501-776-5922

May 10, 2021

City of Benton  
Community Development Department  
Attn: Mr. Brad Jordan  
114 South East Street, Benton, AR 72015

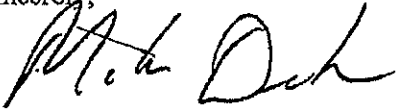
**Re: Letter of Requesting Rezone for 603 North Market Street., Benton, AR.**

Dear Mr. Jordan,

Please accept this letter as a request to rezone the property located at the address above, described more particularly per the attached survey. The current zoning for the property is C-1, the proposed zoning will be TC-2.

Please review the enclosed and inform our office of your findings. If you have any questions regarding the site, please feel free to contact our office.

Sincerely,

A handwritten signature in black ink, appearing to read "Mike Duke". The signature is fluid and cursive, with the first name "Mike" and last name "Duke" clearly distinguishable.

Mike Duke  
603 North Market Street  
Benton, AR 72015



## REZONE APPLICATION

TO THE BENTON, ARKANSAS PLANNING COMMISSION:

Applicant's Name Mike Duke

Address of subject property 603 North Market Street Benton, AR 72015

Legal description of subject property See Attached

Parcel Number 800-50562-000

It is requested that the above described property, currently in a C-1 Zone District, be changed to a TC-2 Zone District. Attached hereto as a part of this application is an accurate scale drawing of the site and the surrounding area for a minimum distance of three hundred (300) feet from each boundary of the site showing locations of existing streets, property lines and the name and last known address of the recorded legal owners of all properties shown on the drawing. I hereby certify that I am the owner of the property identified in this application and to the best of my knowledge and belief, is true and correct.

Signed M. Duke

Email mikeduke529@gmail.com

Address 603 N. Market

Phone 501-860-0146

Subscribed and certified to me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

Receipt Number \_\_\_\_\_

Planning Department Representative \_\_\_\_\_

NOTE: THIS APPLICATION NEED NOT BE FILED IN PERSON AT THE OFFICE OF THE PLANNING COMMISSION; HOWEVER, WHEN FILING BY MAIL OR SECOND PARTY, THE SIGNATURE MUST BE NOTARIZED.

Property Description:

Lots 7, 10, and 11 of Block 6 of the North Benton Subdivision to the City of Benton in Saline County, Arkansas.

# DUKE MICHAEL T & STEPHANIE D TRUSTEES MICHAEL T DUKE REV TRUST & STEPHANIE DEMUTH DUKE REV TRUST

603 N MARKET ST  
BENTON, AR 72015  
9

[Basic](#)   [Land](#)   [Sales](#)   [Valuation](#)   [Taxes](#)   [Receipts](#)   [Improvements](#)   [Parcel Boundary](#) 9

## Basic Info

Parcel Number: 800-50562-000

County Name: Saline County

Property Address: DUKE MICHAEL T & STEPHANIE D TRUSTEES MICHAEL T DUKE REV TRUST & STEPHANIE DEMUTH  
DUKE REV TRUST  
603 N MARKET ST  
BENTON, AR 72015  
[Map This Address](#)

Mailing Address: DUKE MIKE T & STEPHANIE D  
603 N MARKET ST  
BENTON AR 72015-3739

Collector's Mailing Address ⓘ: DUKE MIKE T & STEPHANIE D  
603 N MARKET ST  
BENTON, AR 72015-3739

Total Acres: 0.00

Timber Acres: 0.00

Sec-Twp-Rng: 11-02S-15W

Lot/Block: 7,10,11/006

Subdivision: NORTH BENTON

Legal Description: 2016-019978

School District: 082 BENTON/BENTON

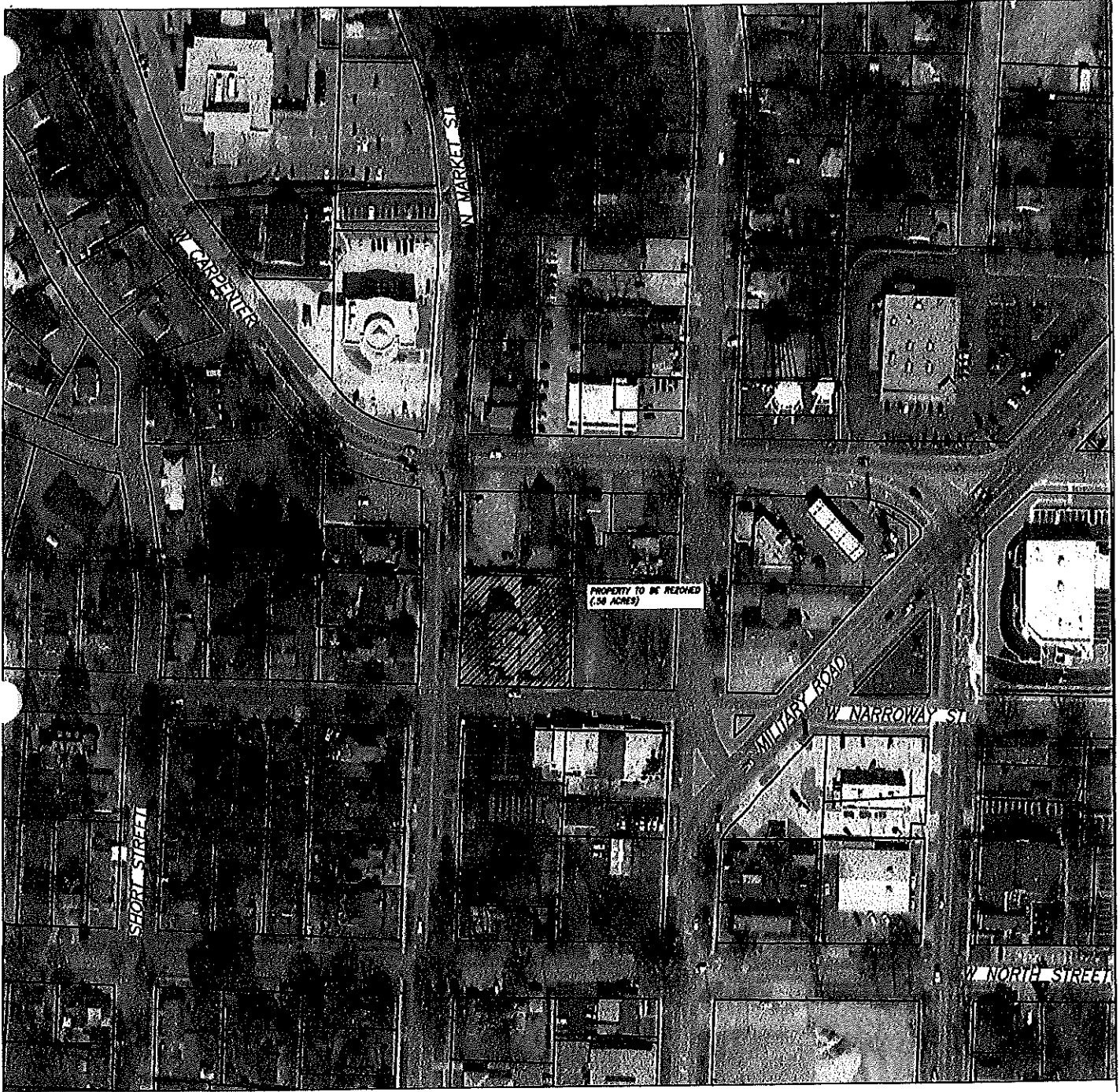
Homestead Parcel?: Yes

Tax Status: Taxable

Over 65?: Yes

5/11/2021

DUKE MICHAEL T & STEPHANIE D TRUSTEES MICHAEL T DUKE REV TRUST & STEPHANIE DEMUTH DUKE REV TRUST-800-50...



## VICINITY MAP



1"=200'

NOTE: AREA OF PROPERTY TO BE REZONED  
IS HATCHED: FROM C-1 TO TC-2

## Proof of Publication

STATE OF ARKANSAS  
County of Saline

I, Bailey Station, do  
solemnly swear that I am Legal Advertising  
Clerk for The Saline Courier, a daily newspaper  
printed in said county, and that I was such at the  
date of publication hereinafter stated, and that  
said newspaper had a bona fide circulation in  
such county at said dates, and has been regularly  
published in said county since the year 1876  
before the date of the first publication of the  
advertisement hereto annexed, and that said  
advertisement was published in said newspaper  
1 times for 1 issues, the first  
insertion therein having been made on  
5.14.21, and the last insertion on  
5.14.21.

Billed Account Richardson Eng.

Ad Number

112155

Bailey Station  
Legal Advertising Clerk

Sworn to and subscribed before me on 5.17.21

Julie Crabbs  
Notary Public

### FEE FOR PRINTING

\$ 36.40 Cost of Notice

\$ 2.60 Cost of Proof

\$ 39.00 Total

### Legal Notices

NOTICE IS HEREBY GIVEN that a hearing  
will be held by the Planning Commission of  
the City of Benton, AR on the 1st day of June  
2021 at 6:00 pm, at 114 South East St on the  
petition of Mr. Mike Duke and Ms. Stephanie  
Duke for rezoning the property located at 603  
North Market Street Benton, AR 72015, being  
considered for rezoning from C-1 to TC-2 on  
the lands to wit:

Property Description:  
Lots 7, 10, and 11 of Block 6 of the North Ben-  
ton Subdivision to the City of Benton in Saline  
County, Arkansas.

