

CITY OF SPRINGDALE
Committee Agendas
Monday, November 14th, 2016
Multipurpose Room #236
City Administration Building
Meetings begin at 5:30 p.m.

Ordinance Committee by Chairman Mike Overton:

1. **An Ordinance** amending Section 46-2 of the Code of Ordinances of the City of Springdale, Arkansas; declaring an emergency; and for other purposes. Item to be presented by: Mike Irwin, Fire Chief. (2-3)

Finance Committee by Chairman Eric Ford:

2. **A Resolution** approving and authorizing the Mayor and City Clerk to execute a water purchase contract for water service between the cities of Tontitown and Springdale, Arkansas. Item to be presented by: Heath Ward, Director of Springdale Water Utilities. (4-29)

That which is underlined is added and that which is stricken through is deleted.

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTION 46-2 OF THE CODE OF ORDINANCES OF THE CITY OF SPRINGDALE, ARKANSAS; DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES.

WHEREAS, Section 46-2 of the Code of Ordinances of the City of Springdale, Arkansas, contains the regulations regarding open burning in the City of Springdale, Arkansas;

WHEREAS, it is in the best interest of the citizens of the City of Springdale, Arkansas, for the City Council of the City of Springdale, Arkansas, to amend the regulations regarding open burning in the City of Springdale, Arkansas;

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

Section 1: Section 46-2 of the Code of Ordinances of the City of Springdale, Arkansas, is hereby amended to read as follows:

Sec. 46-2. - Open burning.

- (a) Supplemental rules. In conjunction with the Arkansas fire prevention code, which has been adopted by reference by the city in section 46-51 of this Code, the following are the rules which must be followed when burning outdoors inside the city:
- (1) A burn permit is required before burning commences. Permits may be obtained at Fire Station 1, 417 Holcomb, on Monday thru Friday between the hours of ~~7:30~~ 8:00 a.m. and ~~5:30~~ 5:00 p.m. A fire may not be started before obtaining a permit. Large burns may be subject to a site inspection by the fire marshal's office.
 - (2) Fires shall be small and 50 feet or more from any building. Any variance from this subsection must be approved by the fire department and must meet the fire code provisions.
 - (3) A fire must be attended by a competent person at all times, which means the fire may not be too large in size or exceed the amount of locations for those attending the fire to properly manage and control it.
 - (4) Fire control equipment must be available, for example, a garden hose, water extinguisher, or heavy equipment. Anything other than water must be approved by the fire department.
 - (5) Burning plastics, rubber, shingles, building debris, or anything that will create black smoke is prohibited.
 - (6) The fire must be out (completely extinguished) by dark.
 - (7) Gasoline may not be used to start the fire.

- (b) Extinguishment of fire. These rules are in addition to those set out in the state fire prevention code and the fire department may require extinguishment of the fire if a violation of this chapter is determined. complaint is received, such as the smoke blowing toward or into a person's home. Smoke emissions from permissible open burning shall not be allowed to become a nuisance or safety hazard. In the event that such emission are identified by the fire department to be of an offensive nature to surrounding landowners and/or is determined to be detrimental to the general safety and well-being of the public, the fire department may require discontinuance of such open burning.
- (c) Outdoor cooking fires and recreational fires are allowed without a burn permit. These are outdoor fires which burn materials other than rubbish where the fuel being burned is not contained in an incinerator, outdoor fireplace, barbeque grill or barbeque pit and has a total fuel area of three feet (914mm) or less in diameter and two feet (610mm) or less in height for pleasure, religious, ceremonial, cooking, warmth or similar purposes. Safety precautions must be taken that these types of fires are contained and attended. A means of extinguishment is required to prevent the accidental spread of the fire.
- (d) Open Burning Complaints. In the event the fire department receives and responds to a complaint of open burning, the fire department will respond to determine the nature of the call and ascertain if a burn permit has been issued to the address. If it is determined that a burn permit has been issued to the address and all provisions of the burn permit are met, the open burning will be allowed to continue as permitted. However, if it is found that no burn permit was issued, or if the burn permit holder is not meeting the provisions of the burn permit or this chapter, a citation may be issued and is punishable by Sec. 46-1 herein. The burn complaint report shall contain the name, address and telephone number of the complaining or reporting parties.

Section 2: All other provisions of Chapter 46 of the Code of Ordinances of the City of Springdale, Arkansas, not specifically amended by this ordinance shall remain in full force and effect.

Section 3: Emergency Clause: It is hereby declared that an emergency exists and that this ordinance being necessary for the preservation of the health, safety and welfare of the citizens of Springdale, Arkansas, become effective immediately upon its passage and approval.

PASSED AND APPROVED this _____ day of _____, 2016.

Doug Sprouse, Mayor

ATTEST:

Denise Pearce, City Clerk

APPROVED AS TO FORM:

Ernest B. Cate, City Attorney

RESOLUTION NO. _____

**A RESOLUTION APPROVING AND AUTHORIZING THE
MAYOR AND CITY CLERK TO EXECUTE A WATER
PURCHASE CONTRACT FOR WATER SERVICE
BETWEEN THE CITIES OF TONTITOWN AND
SPRINGDALE, ARKANSAS.**

WHEREAS, there has been a contract between the City of Springdale, Arkansas, and the City of Tontitown, Arkansas, for the Springdale Water and Sewer Commission to provide water services to customers in certain areas of the City of Tontitown, Arkansas, but that contract has now expired;

WHEREAS, the City of Springdale owns and operates a municipal water distribution system with a capacity capable of meeting the current needs of its users located within the corporate limits of the City of Springdale, Arkansas, and to the City of Tontitown, Arkansas;

WHEREAS, the City of Tontitown, Arkansas, has expressed its desire to continue to receive water service from the Springdale Water and Sewer Commission, pursuant to a Water Purchase Contract ("the Contract"), a copy of which is attached and his incorporated herein;

WHEREAS, the governing body of the City of Tontitown, Arkansas, has approved the Contract; and

WHEREAS, it is in the best interests of the City of Springdale, Arkansas, that the Contract be approved and ratified.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL FOR THE CITY OF SPRINGDALE, ARKANSAS, that the Mayor and City Clerk are hereby authorized to execute the Contract (attached hereto as Exhibit "A") between the City of Springdale, Arkansas, and the City of Tontitown, regarding water service to customers in the City of Tontitown, Arkansas, and said agreement is hereby approved.

PASSED AND APPROVED this ____ day of _____, 2016.

Doug Sprouse, Mayor

ATTEST:

Denise Pearce, City Clerk

APPROVED:

Ernest B. Cate, City Attorney

WATER PURCHASE CONTRACT

This contract for the sale and purchase of water is entered into this _____ day of _____, 2016, by and between the City of Springdale, Arkansas, a municipal corporation acting through its Water and Sewer Commission, hereinafter referred to as the "Seller", and the City of Tontitown, Arkansas, a municipal corporation acting through its Water and Sewer Commission, hereinafter referred to as the "Purchaser":

WITNESSETH:

WHEREAS, the Seller owns and operates a water distribution system with a capacity capable of meeting the current needs of its users; and,

WHEREAS, the Purchaser owns and operates a water distribution system that requires a supply of treated water; and,

WHEREAS, the parties have previously entered into water purchase contracts in 1971, 1973, 1987, 1989, 1998, 2009, 2010 and the most recent version executed on September 13, 2011; and,

WHEREAS, the term of said water purchase contract is set to expire on September 13, 2016 and the parties desire to enter into a new contract establishing terms and provisions allowing Purchaser to continue purchasing potable water from Seller;

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS AND CONDITIONS HEREINAFTER SET FORTH, AND FOR OTHER GOOD AND VALUABLE CONSIDERATION, THE RECEIPT OF WHICH IS HEREBY ACKNOWLEDGED, SELLER AND PURCHASER HERETO MUTUALLY AGREE AS FOLLOWS:

(1) QUANTITY: Seller agrees to furnish the Purchaser, at points of delivery hereinafter specified, during the term of this contract or any renewal or extension thereof, potable water meeting applicable purity standards of the Arkansas Department of Health in such quantity as may be required by the Purchaser not to exceed a maximum of 18.6 million gallons of water per month nor 600,000 gallons per day. Instantaneous flow shall not exceed 1000 gallons per minute. These maximums may be mechanically restricted. Any conservation measures required during times of peak flows or emergency situations will be left to the discretion of Purchaser. If the daily maximum flow or the instantaneous flow is exceeded, even with a mechanical restriction in place, a warning shall be issued upon the first occurrence. If there is an additional occurrence, Purchaser shall pay a fine of Two Thousand Dollars (\$2000.00). If there are additional occurrences within a rolling thirty (30) day period of each other, Purchaser shall pay a fine of Five Thousand Dollars (\$5000.00) per occurrence thereafter. The exception is any ISO testing or planned flow testing or other activity that is coordinated by the Tontitown Public Works Director or his representative with authorities at Springdale Water Utilities at least 72 hours in advance excluding holidays. The activity shall be mutually agreed upon.

(2) **POINTS OF DELIVERY:** The points of delivery for water furnished by the Seller are: (a.) a meter vault located at the northwest corner of the intersection of Arkansas State Highway 412 and Jones Road and (b.) a meter vault located near the intersection of Arkansas State Highway 112 and Washington County Road 883 (Kissinger Avenue). A third point of delivery shall be maintained by Seller which shall be used only as an alternate (backup) point of delivery when the metering equipment located in the vault at Arkansas State Highway 412 and Jones Road is temporarily placed out of service due to maintenance, testing or repairs. Said alternate point of delivery is located at the northwest corner of the intersection of Arkansas State Highway 112 and Barrington Road. The alternate point of delivery may also be used by Seller, at Purchaser's request, to provide a secondary source of water to the Purchaser on a temporary basis during emergency repairs to water lines located along Arkansas Highway 412.

(3) **WATER PRESSURE:** If a greater or reduced pressure other than that supplied by the Seller is required by Purchaser, the cost to increase or decrease such pressure shall be borne by the Purchaser. Purchaser shall obtain written approval from the Seller prior to the installation of any equipment utilized to increase or decrease water pressure.

(4) **METERING EQUIPMENT:** The Seller agrees to furnish, install, operate and maintain at its own expense at each of the points of delivery, the necessary metering equipment for properly measuring the quantity of water delivered to the Purchaser and to calibrate such metering equipment whenever requested by the Purchaser but not more frequently than once every twelve (12) months. Metering equipment shall conform to accuracy standards established by the American Water Works Association for the type and size of meter being used. The previous readings of any meter disclosed by test to be inaccurate shall be corrected for the four (4) months previous to such test in accordance with the percentage of inaccuracy found by such tests. If any meter fails to register for any period, the amount of water furnished during such period shall be deemed to be the amount of water delivered in the corresponding period immediately prior to the failure unless Seller and Purchaser shall agree upon a different amount. The metering equipment shall be read monthly. An appropriate official of the Purchaser shall be provided access to the meters at all reasonable times for the purpose of verifying meter readings.

(5) **BILLING AND PAYMENT:** Seller agrees to furnish the Purchaser with an itemized statement of the amount of water furnished to Purchaser during the preceding month. Purchaser agrees to pay the Seller for water delivered according to the schedule of rates set forth hereinafter and in a timely manner pursuant to the ordinances of the City of Springdale presently in effect and hereafter adopted. In the event Purchaser fails to make timely payment as provided herein, then Seller, at its option, shall give notice to Purchaser that services shall be terminated within five (5) days unless the payment is made.

(6) **PRICE:** It is hereby stipulated and agreed that Purchaser shall pay Seller a price for water that will be adjusted annually. The price for each thousand gallons of water, or portion thereof, metered at any of the points of delivery shall be the sum of: (1) the base monthly price as determined hereinafter in Schedule A, and (2) the fixed percentage rate set forth hereinafter in Schedule B.

Schedule A:

The base monthly price for water supplied to Purchaser is established at a rate per thousand gallons that shall be determined by Seller's annual cost to produce and deliver water. Such costs shall be determined by a certified public account in the preparation of Seller's annual audit. Should the Seller incur a rate increase in the cost per thousand gallons of water purchased from Beaver Water District, which increase is not reflected in the most recent annual audit, the Seller shall have the right to collect an additional rate per thousand gallons from the Purchaser equal to the increase incurred from the Beaver Water District. The Seller shall be empowered to charge Purchaser, in the base monthly price for water, the additional rate simultaneous with the time Seller is required to pay the Beaver Water District for the increased amount.

Schedule B:

A fixed rate of twenty-two percent (22%) of the base monthly price, as determined above in Schedule A. Once a storage tank is built and placed into service, as provided in Paragraph 16, the fixed rate shall be reduced to nineteen percent (19%). Exhibit A is attached to show the monetary impact per 1000 and how it is calculated.

Purchaser and Seller hereby agree that the Purchaser shall continue to purchase water from Seller at the current price of \$3.07 per thousand gallons until January 1, 2017. Thereafter, the price of water shall be adjusted commensurate with the price provisions set forth above.

(7) **CONDITIONS OF SELLER'S PERFORMANCE:** The Seller agrees to operate and maintain its system in an efficient manner and will take such action as may be necessary to furnish the Purchaser with quantities of water set forth herein. Emergency failures of system pressure or supply due to water supply line breaks, power failures, floods, fires, earthquakes, or other catastrophes shall excuse the Seller from this provision for such reasonable period of time as may be necessary to restore service. Temporary or partial failure to deliver water shall be remedied with all possible dispatch. Seller reserves the right to reduce flow to Purchaser, if there is a public health issue in either party's system.

(8) **COVENANTS OF PURCHASER:** The Purchaser covenants and agrees that it will not interconnect its facilities to any other source of water or permit its customers to interconnect a well, or wells, public or private, to be interconnected with the distribution system while connected to and using water from the Seller's system. All facilities constructed by the Purchaser which are connected to the Seller's water system shall be constructed in accordance with the rules and regulations of the Arkansas Department of Health, and the Purchaser will operate its water system in accordance with the rules and regulations of the Arkansas Department of Health. Purchaser shall adopt and enforce the State Plumbing Code. In the event Seller cannot furnish treated water meeting EPA safe drinking water requirements at the points of delivery, specifically including disinfection/disinfection by-products requirements, then Purchaser may purchase treated water from another source meeting such requirements. When Purchaser begins purchasing water from another source, the Parties agree this agreement shall thereupon be terminated and Purchaser shall thereafter obtain all water from another source other than Seller. In such event, except for payment by Seller for any outstanding charges for water previously purchased, neither party shall

have any further obligation to the other under this agreement. The purchaser shall not be responsible for a failure that is due to a natural disaster of great magnitude.

(9) **SPECIAL COVENANT OF PURCHASER:** The Purchaser understands and agrees that the maintenance of an approved water supply of the Seller is essential to the health and well-being of its entire community. If the Purchaser fails to carry out the rules and regulations of the Arkansas Department of Health and such failure would require the Arkansas Department of Health to withdraw its approval of the water supply of the Seller, the Seller shall have the right to terminate this Agreement, or at Seller's discretion, require the Purchaser to install reduced-pressure backflow assemblies at the points of delivery.

(10) **COMPLIANCE:** Purchaser agrees to comply with all the rules and regulations of the Springdale Water and Sewer Commission and all ordinances of the City of Springdale, Arkansas, pertaining to the water or sewer use codes presently in effect and hereafter adopted. In the event Seller should experience a water shortage, Purchaser agrees to require water conservation of its users according to the voluntary and mandatory measures being imposed by the Seller upon its water users. If a boil order is imposed due to hydraulic demand or other condition occurring within the Purchaser's water system, Purchaser shall be responsible for such costs and expenses incurred by Seller.

(11) **INDEMNITY AND HOLD HARMLESS PROVISION:** Purchaser agrees to indemnify or otherwise hold harmless the Seller from any and all claims of every nature of any customer of the Purchaser. Purchaser further agrees to indemnify Seller for all costs of defending such claims including any judgment, interest, penalties, and attorney's fees. Nothing contained in this agreement shall abrogate or otherwise waive any immunity of either party under Arkansas law.

(12) **TERRITORY:** Subject to certain exceptions stated herein, it is understood and agreed by and between the Seller and Purchaser hereunder that Purchaser shall not furnish water purchased under this Agreement to any area located outside the Water Service Boundary of the Tontitown Water system as delineated on a map attached hereto as Exhibit B.

First Exception: Seller and purchaser hereby acknowledge that Purchaser entered into a settlement agreement with Washington Water Authority dated the 3rd day of March, 2010, a copy of which is attached hereto as Exhibit C and incorporated herein by this reference. Seller and Purchaser hereby agree that Purchaser shall be allowed to provide water service to any current or future locations identified in the settlement agreement where water service is to be provided by the Tontitown Water Commission, even though said locations may be located outside Purchaser's water service area as delineated on the map in Exhibit B. Purchaser agrees to abide by the terms of the settlement agreement between the Purchaser and Washington Water Authority and shall provide written notice to Seller of any additional agreements or amendments to the existing agreement with Washington Water Authority.

(13) **TERM:** Seller and Purchaser hereby agree that the term of this contract shall be for a period of five (5) years from the date of this contract and shall automatically terminate at such time, subject only to the renewal provisions contained herein.

(14) **RENEWAL:** The Purchaser shall have the option to renew this contract upon terms and conditions as may be negotiated by the Seller and Purchaser by giving not less than six (6) months of written notice in advance of the termination date of this contract.

(15) **NOTICES:** It is understood and agreed that the Seller is acting through its Water and Sewer Commission and that Purchaser is acting through its City Council. Any notice required by either party under this contract shall be given by placing in the United States mail a certified letter with return receipt requested with postage prepaid and addressed to the presiding officer of the party to be notified within the time required as set forth above. Nothing, herein, shall preclude giving actual written notice by placing such notice in the hands of the party to whom it is intended. If the City of Tontitown elects to use another water supplier, they must notify Springdale Water Utilities of their intent sixty (60) days in advance.

(16) **TANK REQUIRED:** The parties agree that purchaser shall be required to install a water tank within four (4) years of the execution of this Agreement. If the Purchaser fails to erect a tank within four years, then until such time as the tank is erected and accepted into service Purchaser shall (i) initiate a building moratorium within the corporate limits of the City of Tontitown; (ii) not allow new customers to hook on to the water system; and (iii) pay a monthly amount of Ten Thousand Dollars (\$10,000.00) per month. The design of the water tank must be approved by Seller and meet all Seller's specifications.

(17) **WAIVER:** Failure of either party hereto to exercise any options herein contained upon breach by the other shall not constitute a waiver of that party's right to exercise such options upon future breach.

(18) **COMPLETE AGREEMENT:** It is agreed that neither party hereto is relying upon any oral or written information or representations made by the other prior to the signing of this contract unless expressly provided herein, and that this contract constitutes the entire agreement between the parties and same shall not be hereafter amended or modified unless reduced to writing and signed by the parties hereto. It is further agreed that all earlier agreements of the parties are hereby rescinded.

(19) **SEVERABILITY:** If any phrase, clause, sentence, or paragraph of this contract shall be declared invalid by the judgment or decree of a court of competent jurisdiction, such invalidity shall not affect any of the remaining sentences, paragraphs, or clauses of this contract.

IN WITNESS WHEREOF, the Seller and Purchaser have executed these presents by their respective authorized representatives, having been authorized to do so by appropriate resolution.

CITY OF SPRINGDALE, ARKANSAS

By: _____
Doug Sprouse, Mayor

ATTEST: _____
Denise Pearce, City Clerk

By: _____
Chris G. Weiser, Chair
Springdale Water & Sewer Commission

ATTEST: _____
Paul E. Lawrence, Secretary
Springdale Water & Sewer Commission

CITY OF TONTITOWN, ARKANSAS

By: _____
Paul Colvin Jr., Mayor

ATTEST: _____
Rhonda Ardemagni,
City Recorder/Treasurer

**City of Springdale, Arkansas
Water and Sewer Commission**
A Component Unit of the City of Springdale, Arkansas
Water Fund – Schedule of Cost of Water Sold
Years Ended September 30, 2009 through 2015

	2009	2010	2011	2012	2013	2014	2015
Water purchased (in thousand gallons)	5,043,300	5,196,910	5,391,150	5,585,270	5,109,470	5,306,150	5,316,328
Water sales	\$ 12,673,360	\$ 13,573,168	\$ 13,968,677	\$ 14,747,304	\$ 13,836,006	\$ 14,056,176	\$ 14,166,521
Per thousand gallons	\$ 2,513.87	\$ 2,611.77	\$ 2,590.00	\$ 2,640.04	\$ 2,670.04	\$ 2,649.00	\$ 2,664.77
Operating cost							
Supply and treatment	\$ 6,027,945	\$ 6,200,295	\$ 6,577,214	\$ 6,925,737	\$ 6,678,808	\$ 6,685,756	\$ 6,698,874
Per thousand gallons	1,195.2	1,194.8	1,220.0	1,240.0	1,299.9	1,260.0	1,260.0
Transmission, distribution system and meter	1,052,092	1,251,867	1,499,899	1,697,217	2,050,178	2,165,692	2,301,556
Per thousand gallons	0.8034	0.818	0.833	0.840	0.9156	0.9735	0.9972
General and administrative	1,293,462	1,315,325	1,297,677	1,293,188	1,430,318	1,691,700	1,807,920
Per thousand gallons	0.2565	0.253	0.239	0.230	0.2799	0.3188	0.340
Bad debts	37,191	39,447	31,600	28,595	44,878	36,058	17,606
Per thousand gallons	0.0062	0.0076	0.0059	0.0051	0.0088	0.0068	0.0033
Total operating cost	\$ 11,409,092	\$ 12,842,728	\$ 12,476,341	\$ 12,946,907	\$ 11,233,186	\$ 11,679,219	\$ 13,825,656
Cost per thousand gallon-	\$ 2,263.3	\$ 2,471.8	\$ 2,312.7	\$ 2,318.0	\$ 2,178.0	\$ 2,199.1	\$ 2,600.6

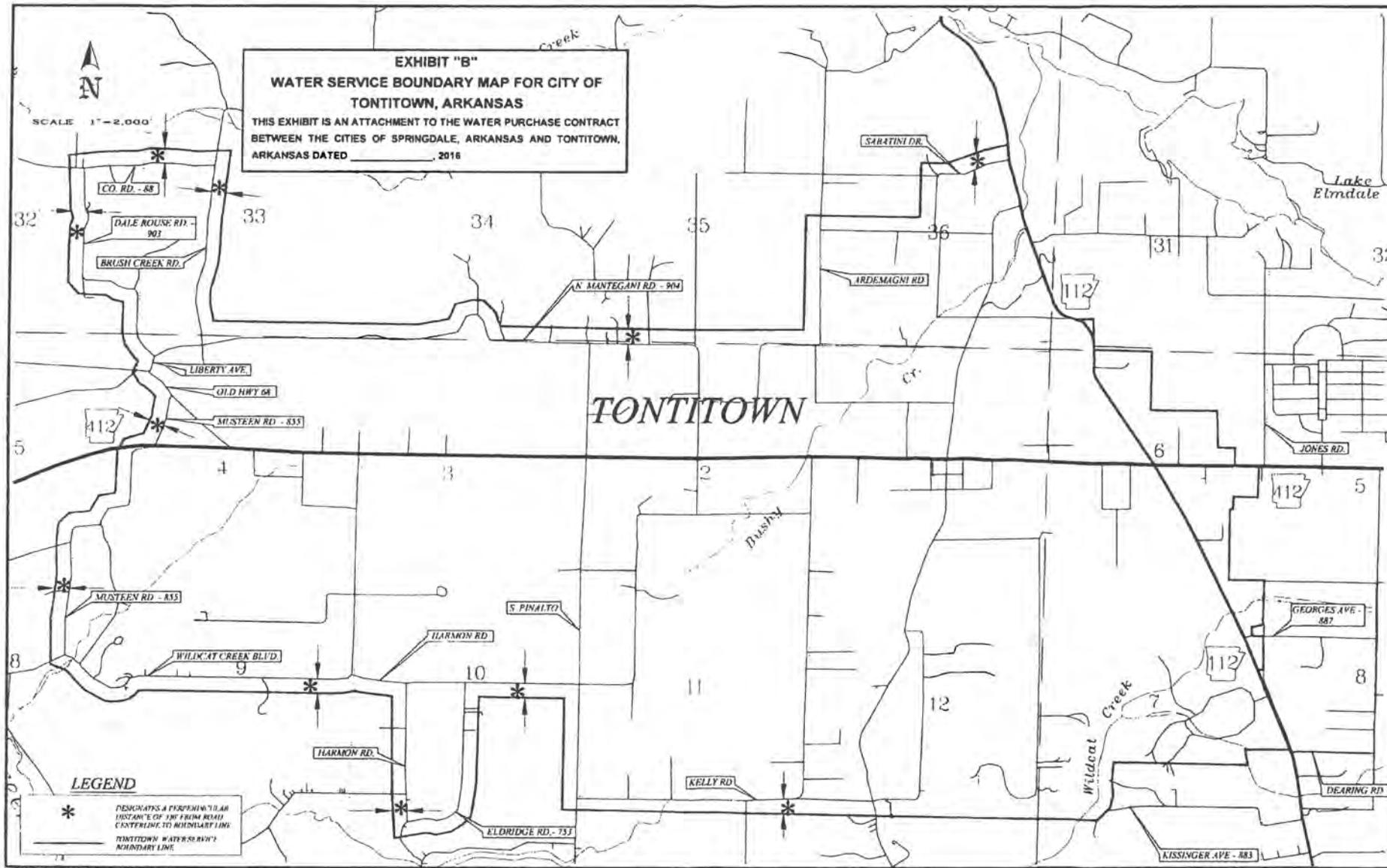
The above schedule is included in SWU's annual audit report. Each category of costs has been audited by our independent auditors. The Total Operating Cost is divided by the gallons purchased from BWD (\$13,825,656 / 5,316,328 gallons = \$2.6006 per 1000 gallons) to calculate SWU's Cost Per Thousand Gallons.

+ 2.6006 Cost/1000 Gallons	+ 2.6006 Cost/1000 Gallons
* 1.17 Add 17%	* 1.19 Add 19%
-----	-----
+ 3.04 Base Rate	+ 3.09 Base Rate
+ 0.03 BWD Rate Increase	+ 0.03 BWD Rate Increase
-----	-----
3.07 Current Rate	3.12 Rate @ 19%
+ 2.6006 Cost/1000 Gallons	
* 1.22 Add 22%	

+ 3.17 Base Rate	
+ 0.03 BWD Rate Increase	

3.20 Rate @ 22%	

The above calculations are only an example of how the rates are calculated. All future rates will be based on the Contract, future audit reports, and rate increases from BWD.



"Exhibit C"

IN THE CIRCUIT COURT OF WASHINGTON COUNTY, ARKANSAS
CIVIL DIVISION

TONTITOWN WATER &
SEWER COMMISSION

VS.

Case No. CV 09-1256-2

WASHINGTON COUNTY RURAL
DEVELOPMENT AUTHORITY and
WASHINGTON WATER AUTHORITY

WASHINGTON COUNTY RURAL
DEVELOPMENT AUTHORITY and
WASHINGTON WATER AUTHORITY

V.

TONTITOWN WATER &
SEWER COMMISSION and
CITY OF TONTITOWN, ARKANSAS

TONTITOWN WATER &
SEWER COMMISSION and
CITY OF TONTITOWN, ARKANSAS

V.

JOSH MOORE

CHARLES AND LINDA HARWELL

HUGH AND NICOLE JARRATT

PLAINTIFF
WASHINGTON COUNTY
CIRCUIT COURT
DEBENDANTS
FILED FOR RECORD
10 MAR - 3 AM '26

COUNTER PLAINTIFFS

COUNTER DEFENDANTS

PLAINTIFF

THIRD PARTY DEFENDANT

INTERVENORS

INTERVENORS

MEDIATION SETTLEMENT AGREEMENT

The undersigned parties participated in a mediation of the above styled cause on December 14, 2009, resulting in a settlement agreement. This Mediation Settlement Agreement is the settlement agreement of the parties reached and entered into by and between Tontitown Water & Sewer Commission ("Commission") and City of Tontitown ("City") (Commission and

City shall be collectively referred to as "Tontitown"); Defendants Washington County Rural Development Authority and Washington Water Authority (collectively, "Washington Water"); Third Party Defendant Josh Moore ("Moore"); and Intervenor Charles Harwell and Linda Harwell (collectively, "Harwell") and Hugh and Nicole Jarrett ("Jarrett"). The terms of the settlement agreement are as follows:

1. Tontitown and Washington Water re-affirm that Service Area Boundary Agreement executed by City and Washington Water in June and July 1992 and filed of record on December 5, 1997 in the Office of the Recorder for Washington County, Arkansas as Instrument Number 97-084209 (the "Boundary Agreement"). Tontitown and Washington Water each agree not to encroach upon the territories that are assigned in the Boundary Agreement, except as otherwise expressly provided for herein.
2. Tontitown shall have the right to continue to provide potable water service to those customer locations that are identified on Exhibit A, attached hereto, and Washington Water shall have the right to continue to provide potable water service to those customer locations that are identified on Exhibit B, attached hereto ("Retained Customers").
3. Tontitown will pay to Washington Water Authority the sum of \$7,500 in payment for the right to continue to provide service to those customers identified on Exhibit A, attached hereto.
4. Should any person or business request or apply for water service from Tontitown with regard to any real property that is located entirely inside the Washington Water service territory as defined in the Boundary Agreement (an "Applicant"),

then Tontitown will advise the Applicant that Washington Water possesses the first right of refusal to provide water service to the Applicant, and the Applicant shall be required to request or apply for water service from Washington Water. Upon receipt of a water service application, Washington Water shall have a 45 day period of time to exercise its first right of refusal. Should Washington Water not exercise its first right of refusal with regard to said Applicant within 45 days, then Tontitown will be free to provide water service to said Applicant (a "Released Customer").

5. Should any person or business own or occupy real property that is located both within the Tontitown and the Washington Water service areas as identified in the Boundary Agreement, and should the End Use (defined below) of the contemplated water service be located within the Washington Water service area as identified in the Boundary Agreement, then Washington Water shall possess the first right of refusal to provide water service to such person or business. If the End Use is located inside Tontitown's Service Area, Tontitown shall have the exclusive right to provide water service. As used herein, the term "End Use" shall mean the residence, structure or point at which the property owner or business consumes or utilizes water, without regard to the location of the related water meter.
6. In consideration for Washington Water's waiver of rights set forth in the Boundary Agreement and for other valuable consideration, each Released Customer who receives water service from Tontitown and their successors in title shall pay to Washington Water a monthly recurring charge equal to Twenty-Five

Percent (25%) of the otherwise applicable monthly water bill that is submitted to each Released Customer from Tontitown (the "Released Customer Fee"). Washington Water shall be responsible for billing and collecting the Released Customer Fee. Tontitown will insure that each Released Customer executes a written water user agreement that reflects the Released Customer Fee payment obligation to Washington Water as set forth herein.

7. Both Harwell and Jarratt and their respective successors in title, will be entitled to install one (1) extra standard, single-family residential water meter on their respective real property tracts that are more fully identified on Exhibit C, attached hereto, without charge by Washington Water, such meter to be of the same size as the meter that is located on their property as of the date of this Judgment. The usual and customary charges and fees due Tontitown will still apply.
8. Any other Tontitown water customer that is identified on Exhibit A, attached hereto, shall have the right to obtain from Tontitown one (1) additional standard, single-family residential meter to serve their property subject to the payment by said property owner to Washington Water of a fee equal to \$250 per meter (the "Extra Meter Fee"). Tontitown will insure that the Extra Meter Fee is disclosed in its water user agreement. The usual and customary charges and fees due Tontitown will still apply. Washington Water shall be responsible for billing and collecting all Extra Meter Fees payable hereunder and payment of the Extra Meter Fees shall be paid directly to Washington Water.
9. With regard to a certain 7.5 acre, more or less, tract of property owned by Jarrett and more fully described on Exhibit D, hereto (the "Jarrett Tract"), Washington

Water agrees that it will release its first rights of refusal with regard to the Jarrett Tract should Washington Water be unable to obtain an easement to provide water service thereto. If said easement is not obtained, then the Jarrett Tract shall be released from Washington Water's service area.

10. The parties who have asserted claims in this matter agree to dismiss any pending lawsuit and all claims which exist against each other or their respective board members, commissioners, officers, agents, employees or contractors, including Josh Moore and Mick Wagner, with prejudice and to execute any release documents required by any party hereto or their attorneys. The parties hereto agree to cooperate in executing such other release and settlement documents required by the parties being released.
11. This agreement has been approved by the Boards governing the entities involved.
12. This Agreed Order is a compromise of a doubtful and disputed claim and shall not be construed as an admission of liability on the part of anyone hereby released, all of whom deny liability and wish only to buy their peace. Each party shall be responsible for their own costs and attorneys fees incurred herein.
13. The Circuit Court in and for Washington County, Arkansas which has possessed jurisdiction over the subject litigation shall retain such jurisdiction in the future for the purpose of enforcing this Agreement and the rights, remedies and obligations of the parties hereto.
14. Each party hereto shall be responsible for their respective legal fees and costs related to this litigation.

EXHIBIT A

The following identifies those customer to whom
Tontown shall have the right to continue providing water service

TONITTOWN CUSTOMERS IN WWA SERVICE AREA

DECEMBER 31, 2009

	ACCOUNT NUMBER	LAST NAME OR ENTITY	FIRST NAME	SERVICE ADDRESS	Date Service Initiated
1	208220	SHATZER	JAMES	1440 ARDEMAGNI ROAD	3/25/1997
2	208260	SABATINI	LARRY	1245 ARDEMAGNI ROAD	3/25/1997
3	208280	VAUGHAN	SARAH	1277 ARDEMAGNI ROAD	3/28/2008
4	208300	TROLLINGER	BRIAN & DARLA	1415 ARDEMAGNI ROAD	5/17/2006
5	208380	GREEN	JOSEPHINE	1677 ARDEMAGNI ROAD	5/10/2004
6	208420	GREEN	JOHNNIE J.	1793 ARDEMAGNI ROAD	5/10/2004
7	311800	HENSON	BLAKE	1673 S. BARRINGTON ROAD	3/21/1997
8	311640	ALSTON	JOHN D.	1819 S. BARRINGTON ROAD	3/21/1997
9	204620	FARMER	CAROLINE	855 DALE ROUSE ROAD	4/8/2004
10	301990	BILDERBACK	MIKE	1264 ELDRIDGE ROAD	3/21/1997
11	302310	DUTTON	LARRY	1562 ELDRIDGE ROAD	6/1/1999
12	302470	ATWOOD	DANIEL	1617 ELDRIDGE ROAD	8/23/2007
13	302550	ATWOOD	DANIEL	1611 ELDRIDGE ROAD	8/23/2007
14	210340	SLAUGHTER	KIM	846 FOSTER LANE	4/4/2003
15	210420	DANIEL	MISTY	952 FOSTER LANE	1/31/2007
16	301600	KOSTELECKY	RANDY	1399 HARMON ROAD	3/15/1997
17	301630	WILSON	ROBERT & DONNA	1455 HARMON ROAD	10/11/2001
18	301670	KING	LELTON & BARBARA	1477 HARMON ROAD	3/21/1997
19	301550	SUCHIL	MARK	2534 HOPE LANE	6/17/2002
20	301560	RODGERS	BARNEY	2561 HOPE LANE	3/15/1997
21	301570	HODEL	MARK & KATHY	2562 HOPE LANE	3/11/2002
22	301580	LEE	PATRICK & MARLA	2591 HOPE LANE	12/9/2001
23	301590	LAWRENCE	MELISSA	2592 HOPE LANE	7/21/2005
24	209510	GREENLEE	TOMMY	748 JAVELLO ROAD	3/25/1997
25	209530	GREENLEE	BILLIE	801 JAVELLO ROAD	6/1/2007
26	209540	KIMREY	HAROLD	871 JAVELLO ROAD	11/1/2001
27	209550	KIMREY	N.C.	873 JAVELLO ROAD	11/5/2007
28	209560	BETTENCOURT	B.F.	861 JAVELLO ROAD	3/25/1997
29	209580	SABATINI	GARY	863 JAVELLO ROAD	3/25/1997
30	209590	MANTEGANI	IRVIN L.	710 JAVELLO ROAD	8/1/2001
31	209650	PIERCE	DIANNA	893-B JAVELLO ROAD	8/24/2004
32	209660	KELSO	RICHARD	883-A JAVELLO ROAD	3/25/1997
33	311880	MCKIM	MARILYN	705 KELLY AVENUE	3/21/1997

TONTITOWN CUSTOMERS IN WVA SERVICE AREA

DECEMBER 31, 2009

34	312160	HATHORN	GARY D.	1325	KELLY AVENUE	3/21/1997
35	300390	KIRK	FRED	4046	KIRK LANE	5/5/2004
36	405420	JARRATT	HUGH & NICOLE	1376	KISSINGER AVENUE	11/3/2006
37	405460	DRIVER	RODNEY	1866	KISSINGER AVENUE	2/13/2009
38	209640	TURNBEAUGH	LINDA	1676	LIBERTY AVENUE	3/24/2009
39	209641	ENGLES	JOHN	1676	LIBERTY AVENUE	3/20/2008
40	209780	FTTIS	DOROTHY	1816	LIBERTY AVENUE	3/25/1997
41	209940	MCGARRAH	CHRISTOPHER	1998	LIBERTY AVENUE	3/25/1997
42	210020	ANDERSON	HEATHER	2034	LIBERTY AVENUE	10/27/2003
43	210060	BOAN	MATTHEW T.	2016	LIBERTY AVENUE	4/29/2008
44	210140	ANDERSON	LAWRENCE	2054	LIBERTY AVENUE	12/26/2008
45	405220	HARWELL	CHARLES	1515	S. MAESTRI ROAD	1/7/2001
46	208460	SERGEANT	JOE	1066	MILLSAP ROAD	6/14/2006
47	208500	USSERY	RODNEY	878	MILLSAP ROAD	4/18/2006
48	208540	USSERY	RODNEY	1152	MILLSAP ROAD	6/27/2004
49	208580	PATRICK	RICHIE & PAIGE	1232	MILLSAP ROAD	8/30/2006
50	208620	WHELCHER	SHARON	1270	MILLSAP ROAD	2/28/2005
51	208630	WHELCHER	SHARON	1270	MILLSAP ROAD	4/19/2007
52	208660	PENZO	ARTHUR	1550	MILLSAP ROAD	9/22/2004
53	208740	LEWIS	JONATHAN & CHRISTY	1654	MILLSAP ROAD	8/12/2008
54	208750	HIDALGO	SANDRA	1373	MILLSAP ROAD	9/13/2004
55	203380	COOK	BRUCE	3851	OLD HIGHWAY 68	6/20/1997
56	307700	LAWSON	RONALD & RITA	1491	S. PIANALTO ROAD	11/9/2006
57	307780	MILLER	SUSAN	1705	S. PIANALTO ROAD	2/11/2008
58	307940	HAMILTON	JEFF L.	1698	S. PIANALTO ROAD	3/21/1997
59	207180	SABATINI	FREIDA	1341	SABATINI ROAD	3/25/1997
60	207220	WILBURN	LARRY D.	1343	SABATINI ROAD	3/25/1997
61	207260	SABATINI	AJAN	1355	SABATINI ROAD	7/30/1995
62	400660	FULTON FAMILY TRUST		1650	TALDO LOOP	9/7/2006
63	208340	COOK	DOUG	4048	TAYLOR LANE	5/23/1997
64	208360	WOOD	A.L. & SUE	1574	THERESA LANE	8/23/2005
65	208940	BARIOLA	LLOYD	1457	THERESA LANE	3/25/1997
66	304850	MEYER	TIM	2945	WILDCAT CREEK	9/4/1999
67	304970	BURTON	DENNIS	3103	WILDCAT CREEK	3/15/1997
68	305010	DOZIER	LES	3104	WILDCAT CREEK	3/15/1997
69	305020	DOZIER	LES	3104	WILDCAT CREEK	11/1/2005

TONTITOWN CUSTOMERS IN WWA SERVICE AREA

DECEMBER 31, 2009

70	305140	NICHOLS	RODNEY	3217	WILDCAT CREEK	6/14/2003
71	305610	EDDLEMAN	KEN	3457	WILDCAT CREEK	1/12/2003
72	305660	REYNOLDS	JERRY	3733	WILDCAT CREEK	4/29/2005
73	305700	COFFMAN	ROD	3737	WILDCAT CREEK	9/15/2003
74	305740	HEBLGER	AMY	3739	WILDCAT CREEK	1/3/2005
75	305780	MCDANIEL	TJ & HEATHER	3743	WILDCAT CREEK	8/25/2005
76	305820	SHEL GROVE	ROGER & LORI	3741	WILDCAT CREEK	11/3/2008
77	307160	DELOZIER	MIKE	1905	WILDCAT CREEK	3/21/1997

EXHIBIT B

The following identifies those customers to whom WWA shall have the right to continue providing water service

WASHINGTON WATER AUTHORITY CUSTOMERS

DECEMBER 31, 2009

ACCOUNT NUMBER	LAST NAME OR ENTITY	FIRST NAME	SERVICE ADDRESS	MAILING ADDRESS	Date Service Initiated	Date Service Terminated
1 14-00580-00	PETERSON	BRUCE	21408 DALE ROUSE RD	21408 DALE ROUSE RD, SPRINGDALE, AR. 72762	6/30/2000	
2 14-00580-00	SARAGE	CHERYL	21370 DALE ROUSE RD	21370 DALE ROUSE RD, SPRINGDALE, AR. 72762	1/31/2005	
3 14-14283-00	BURKS	JIMMY	14110 OSAGE CREEK	14110 OSAGE CREEK, SPRINGDALE, AR. 72762	1/9/2005	
4 14-14283-00	BRUSH CREEK BROWLERS		17486 OSAGE CREEK	19 34014/PO DRAWER 2030, SPRINGDALE, AR. 72765-2030	11/24/2004	
5 14-14286-00	GEORGES, INC		17785 OSAGE CREEK	PO DRAWER 2020, SPRINGDALE, AR. 72765-2020	3/10/2006	
6 14-00570-00	BRUSH CREEK PALLETS		15795 OSAGE CREEK	PO DRAWER 6, SPRINGDALE, AR. 72765	3/15/2000	3/17/2006
7 14-00580-00	BRUSH CREEK BAPTIST CHURCH #1		13785 OSAGE CREEK	1385 BRUSH CREEK RD, SPRINGDALE, AR. 72762	7/16/2000	
8 14-00580-00	BRUSH CREEK BAPTIST CHURCH #1		1385 BRUSH CREEK	1385 BRUSH CREEK RD, SPRINGDALE, AR. 72762	7/16/2000	
9 03-08250-00	SMITH	JAMES	1739 BLD BRIDGE	1739 BLD BRIDGE, FAYETTEVILLE, AR. 72704	6/1/2001	
10 03-08270-00	PENNINGTON	GAUL	1779 BLD BRIDGE	1779 BLD BRIDGE, FAYETTEVILLE, AR. 72704	10/25/2000	
11 03-08270-00	HEADRICK	MELISSA	1750 HARMON	1750 HARMON, FAYETTEVILLE, AR. 72704	3/7/2005	
12 03-08250-00	WILCOX	CHARLES	1755 HARMON	1755 HARMON, FAYETTEVILLE, AR. 72704	5/6/2001	

EXHIBIT C

Charles Harwell Property Legal Description:

A part of the Southwest Quarter of the Southwest Quarter of Section 8, and a part of the Southeast Quarter of the Southeast Quarter of Section 7, all in Township 17 North, of Range 30 West, more particularly described as follows: From the Southwest corner of said Section 8, run North 0 degrees 24' 16" West 476.62 feet for the point of beginning, said point being 2 feet South of the top of the South bank of a branch or ravine; thence North 76 degrees 55' West 127.6 feet to a point 2 feet Southwest of the South bank of said branch or ravine; thence North 41 degrees 34' West 39.7 feet to a point 2 feet West of the top of the West Bank of said branch or ravine; thence North 19 degrees 57' West 559.4 feet to a point 2 feet West of the top of the West bank of said branch or ravine; thence North 11 degrees 23' West 253.3 feet to the North line of the Southeast Quarter of the Southeast Quarter of said Section 7 at a point 29 feet West of the top of the West bank of said branch or ravine; thence North 89 degrees 56' East along the North line of said Southeast Quarter of the Southeast Quarter of said Southwest Quarter of the Southwest Quarter 1090.94 feet to the center line of State Highway No. 112; thence along said center line South 16 degrees 20' East 244.36 feet; thence South 9 degrees 41' East 822.6 feet to a point where said center line intersects the top of the South bank of said branch or ravine; thence along said South bank South 89 degrees 31' West 79.4 feet; thence North 77 degrees 8' West 314 feet; thence North 81 degrees 18' West 168 feet; thence North 72 degrees 8' West 125.4 feet; thence North 67 degrees 50' West 124.5'; thence North 75 degrees 26' West 124.3 feet to the point of beginning, containing 22.91 acres, more or less, subject to the right of way of State Highway No. 112 and power line easements as shown on plat.

LESS AND EXCEPT the northern ten acres of the above described property.

EXHIBIT D

Hugh Jarrett Legal Description

Part of the SW 1/4 of the SW 1/4 of Section 8, Township 17 North, Range 30 West of the Fifth Principal Meridian, Washington County, Arkansas, being more particularly described as follows: Beginning at the SW Corner of the SW 1/4 of said SW 1/4; thence North $00^{\circ}24'13''$ West a distance of 476.31 feet (Dead bearing and distance) to a point which is 2.00 feet South of the top of the South bank of a branch or ravine; thence with the top of the South bank of said branch or ravine, South $75^{\circ}26'00''$ East a distance of 124.30 feet (Dead bearing and distance); thence South $67^{\circ}50'00''$ East a distance of 124.50 feet (Dead bearing and distance); thence South $67^{\circ}50'00''$ East a distance of 125.40 feet (Dead bearing and distance); thence South $81^{\circ}18'00''$ East a distance of 166.34 feet (Dead bearing and distance); thence South $77^{\circ}08'00''$ East a distance of 314.00 feet (Dead bearing and distance); thence North $70'00''$ East a distance of 79.40 feet (Dead bearing and distance) to the intersection of the top of the South bank of said branch or ravine and the center of the old Fayetteville to Bentonville Road which is now Arkansas State Highway #112; thence along the center of Highway #112, South $08^{\circ}55'00''$ East a distance of 273.51 feet (Dead bearing and distance) to the South line of the SW 1/4 of the SW 1/4 of said Section 8; thence along said South line of the SW 1/4 of the SW 1/4 of said Section 8, West a distance of 950.29 feet to the Point of Beginning, containing 7.31 acres, more or less, of the Right of Way of Arkansas State Highway #112 along the East boundary and a public road along the South line of the same thereof.



We acknowledge that neither the mediator nor ADR, Inc. has given us legal advice. We further acknowledge that we have had the right to consult with an attorney at any time and to have an attorney review the terms of this agreement before signing it.

IT IS SO AGREED the 14th day of December, 2009.

TONTITOWN WATER & SEWER COMMISSION

By: _____

WASHINGTON WATER AUTHORITY

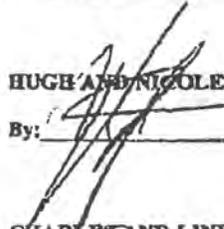
By: _____

WASHINGTON COUNTY RURAL DEVELOPMENT AUTHORITY

By: _____

JOSH MOORE

HUGH AND NICOLE JARRATT, INTERVENOR

By:  _____

CHARLES AND LINDA HARWELL, INTERVENORS

By:  _____

We acknowledge that neither the mediator nor ADR, Inc. has given us legal advice. We further acknowledge that we have had the right to consult with an attorney at any time and to have an attorney review the terms of this agreement before signing it.

IT IS SO AGREED the 14th day of December, 2009.

TONTTOWN WATER & SEWER COMMISSION

By: _____

WASHINGTON WATER AUTHORITY

By: Randy Odyle _____

WASHINGTON COUNTY RURAL DEVELOPMENT AUTHORITY

By: Frank Luther _____

JOSE MOORE

Jose Moore _____

HUGH AND NICOLE JARRATT, INTERVENOR

By: _____

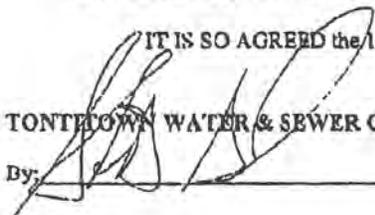
CHARLES AND LINDA HARWELL, INTERVENORS

By: _____

We acknowledge that neither the mediator nor ADR, Inc. has given us legal advice. We further acknowledge that we have had the right to consult with an attorney at any time and to have an attorney review the terms of this agreement before signing it.

IT IS SO AGREED the 14th day of December, 2009.

TONTELOW WATER & SEWER COMMISSION

By:  _____

WASHINGTON WATER AUTHORITY

By: _____

WASHINGTON COUNTY RURAL DEVELOPMENT AUTHORITY

By: _____

JOSH MOORE

HUGH AND NICOLE JARRATT, INTERVENOR

By: _____

CHARLES AND LINDA HARWELL, INTERVENORS

By: _____