



Office of the City Clerk-Treasurer
301 W. Chestnut
Rogers, Arkansas 72756
479-621-1117 · (Fax) 479-936-5401

www.rogersar.gov

COMMITTEE SCHEDULE

TO: MAYOR
CITY COUNCIL
DEPARTMENT HEADS
PRESS

FROM: JESSICA RUSH, CITY CLERK-TREASURER

DATE: February 6, 2020

The following committee meetings will be held on **Tuesday, February 11, 2020** prior to the City Council Meeting:

5:30 p.m. – TRANSPORTATION COMMITTEE: (Kruger, Townzen and Carmichael) **Community Room #1**

- To Discuss: (a) Street Closing Request from American Heart Association for the NWA Heart Walk on April 4, 2020

- (b) Street Closing Request from The Children’s Advocacy Center of Benton County for the Cherishing Children Glow Run on April 17, 2020

- (c) Street Closing Request from Susan G. Komen Ozark Affiliate for the Susan G. Komen Ozark MORE THAN PINK Walk on April 25, 2020

5:45 p.m. – COMMUNITY ENVIRONMENT & WELFARE COMMITTEE: (Carmichael, Townzen and Hayes) **Committee Room #1**

- To Discuss: (a) An Ordinance Amending Rogers Code Section 14-675 By Re-Zoning Certain Lands From R-Sf To R-O At 1712 & 1716 W. Walnut St.

6:00 p.m. – PUBLIC SAFETY COMMITTEE: (Wolf, Kruger and Carmichael) **Community Room #1**

- To Discuss: (a) An Ordinance Waiving Competitive Bidding For The Purchase Of Tasers And Associated Equipment And Warranties From Axon Enterprise, Inc. Of Scottsdale, Arizona

6:00 p.m. – PUBLIC WORKS COMMITTEE: (Townzen, Brashear, and Kendall) **Committee Room #2**

- To Discuss: (a) A Resolution Authorizing The Mayor And City Clerk To Execute A Contract For Water Service With The City Of Lowell

6:15 p.m. – COMMUNITY SERVICE COMMITTEE: (Brashear, Hayes and Kruger) **Committee Room #1**

- To Discuss: (a) An Ordinance Waiving Competitive Bidding For The Repair Of The Rogers Aquatic Center’s Lazy River From Multi-Craft Contractors, Inc. Of Springdale, Arkansas

6:15 p.m. - FINANCE COMMITTEE: (Reithemeyer, Wolf, and Kendall) **Committee Room #2**

- To Discuss:
- (a) A Resolution Amending The 2020 Budget To Recognize Funds From The Arkansas Department Of Health In The Amount Of \$13,905.00 Into Account #100-04-45305

 - (b) A Resolution Amending The 2020 Budget To Recognize Funds From The Arkansas Department Of Health, Health Protection Substance Misuse And Injury Prevention Branch In The Amount Of \$9,000.00 Into Account #100-04-45305 State Grant Revenue

 - (c) A Resolution Authorizing The Mayor And City Clerk To Enter Into A Grant Agreement With The Walton Family Foundation To Receive \$142,625.00; Amending The 2020 Budget To Recognize Grant Funds In The Amount Of \$142,625.00 Into Account #100-18-45600 Grants And Donations; Appropriating \$320,295.00 To Various Expense Accounts From Grant Funds And General Fund Reserves



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ROGERS CITY COUNCIL

AGENDA

FEBRUARY 11, 2020

6:30 P.M.

PUBLIC HEARING:

PUBLIC FORUM:

INVOCATION & PLEDGE OF ALLEGIANCE:

ROLL CALL:

ACTION ON MINUTES: January 28, 2020

REPORTS OF BOARDS AND STANDING COMMITTEES:

- 1. ORD. Re: Amending Rogers Code Section 14-675 By Re-Zoning Certain Lands From R-Sf To R-O At 1712 & 1716 W. Walnut St. - Community Environment & Welfare Committee
- 2. ORD. Re: Waiving Competitive Bidding For The Purchase Of Tasers And Associated Equipment And Warranties From Axon Enterprise, Inc. Of Scottsdale, Arizona - Public Safety Committee
- 3. RES. Re: Authorizing The Mayor And City Clerk To Execute A Contract For Water Service With The City Of Lowell - Public Works Committee
- 4. ORD Re: Waiving Competitive Bidding For The Repair Of The Rogers Aquatic Center's Lazy River From Multi-Craft Contractors, Inc. Of Springdale, Arkansas -Community Service Committee

ROGERS CITY COUNCIL AGENDA

FEBRUARY 11, 2020

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5. RES. Re: Amending The 2020 Budget To Recognize Funds From The Arkansas Department Of Health In The Amount Of \$13,905.00 Into Account #100-04-45305 - Finance Committee
6. RES. Re: Amending The 2020 Budget To Recognize Funds From The Arkansas Department Of Health, Health Protection Substance Misuse And Injury Prevention Branch In The Amount Of \$9,000.00 Into Account #100-04-45305 State Grant Revenue - Finance Committee
7. RES. Re: Authorizing The Mayor And City Clerk To Enter Into A Grant Agreement With The Walton Family Foundation To Receive \$142,625.00; Amending The 2020 Budget To Recognize Grant Funds In The Amount Of \$142,625.00 Into Account #100-18-45600 Grants And Donations; Appropriating \$320,295.00 To Various Expense Accounts From Grant Funds And General Fund Reserves - Finance Committee

OLD BUSINESS:

NEW BUSINESS:

APPOINTMENTS: Giuliana Tartartini-Fields To Replace Matthew Tolson On The Library Board Of Trustees With Term Expiring February 11, 2025

ANNOUNCEMENTS:

ORDINANCE NO. 20-_____

AN ORDINANCE AMENDING ROGERS CODE SECTION 14-675 BY RE-ZONING CERTAIN LANDS FROM R-SF TO R-O, PROVIDING FOR THE EMERGENCY CLAUSE AND FOR OTHER PURPOSES

WHEREAS, pursuant to the provisions of Rogers Code Section Rogers Code Section 14-725, et seq, and upon the consideration of the report and recommendations of the Planning Commission of the City of Rogers, Benton County, Arkansas, the City Council has found that certain lands hereinafter described are better suited for R-O than R-SF zoning.

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

Section 1: That Section 14-675 of the code of Ordinances, City of Rogers, should be and the same hereby is amended as hereinafter provided.

Section 2: That the City’s Comprehensive Growth Map has been amended by Planning Commission to classify the properties at 1716, 1712, 1708, 1608, 1604, 1600, 1504, and 1500 W. Walnut Street as the “Access Corridor” growth designation rather than the “Neighborhood” growth designation.

Section 3: That the land hereinafter described should be and the same is hereby zoned as R-O and that said lands being in Benton County, Arkansas, are described as:

PART OF LOT 2, BLOCK 2 OF FELKER’S SUBDIVISION TO THE CITY OF ROGERS, DESCRIBED AS FOLLOWS: BEGINNING AT A POINT 96 FEET WEST OF THE NE CORNER OF SAID LOT 2, BLOCK 2, RUNNING THENCE WEST 75 FEET, THENCE SOUTH 300 FEET, THENCE EAST 75 FEET, THENCE NORTH 300 FEET TO THE POINT OF BEGINNING.

AND,

PART OF LOTS 2 AND 3 IN BLOCK 2 IN FELKER’S SUBDIVISION OF THE SE ¼ OF SECTION 11, TOWNSHIP 19 NORTH OF RANGE 30 WEST, DESCRIBED AS FOLLOWS: BEGINNING AT THE NE CORNER OF SAID LOT 2, RUN THENCE WEST 96 FEET, THENCE SOUTH 400 FEET, THENCE EAST 96 FEET, THENCE NORTH 400 FEET TO THE PLACE OF BEGINNING, BENTON COUNTY, ARKANSAS.

LAYMAN'S DESCRIPTION: 1712 & 1716 W. Walnut St.

Section 4: That it is necessary to bring proposed uses of the property into conformance with the Rogers City Zoning Ordinances and because of such an emergency is declared to exist and in order to protect the public peace, health, safety and welfare, this ordinance shall be in full force and effect from the date of its passage and approval.

Section 5: Severability Provision- In the event that any section, paragraph, subdivision, clause, phrase, or other provision or portion of this Ordinance shall be adjudged invalid or unconstitutional, the same shall not affect the validity of this Ordinance as a whole, or any part or provision, other than the part so decided to be invalid or unconstitutional, and the remaining provisions of this Ordinance shall be construed as if such invalid, unenforceable or unconstitutional provision or provisions had never been contained herein.

Section 6: Repeal of Conflicting Ordinances and Resolutions- All ordinances, resolutions or orders of the City Council, or parts of ordinances, resolutions or orders of the City Council in conflict herewith are hereby repealed to the extent of such conflict.

PASSED THIS _____ DAY OF _____, 2020.

APPROVED:

ATTEST:

JESSICA RUSH, CLERK

Requested by: Daniel Landis

Prepared by: Department of Community Development

C. GREG HINES, MAYOR

ORDINANCE NO. 20-_____

AN ORDINANCE WAIVING COMPETITIVE BIDDING FOR THE PURCHASE OF TASERS AND ASSOCIATED EQUIPMENT AND WARRANTIES FROM AXON ENTERPRISE, INC. OF SCOTTSDALE, ARIZONA; ALLOWING THE MAYOR AND CITY CLERK TO ENTER INTO A CONTRACT FOR SAID PURCHASE; PROVIDING FOR THE EMERGENCY CLAUSE; AND FOR OTHER PURPOSES.

WHEREAS, the Rogers Police Department needs to purchase eighteen tasers and associated equipment and warranties for use by the department;

WHEREAS, this purchase will be made from Account #100-03-70205 Small Tools & Equipment and was approved and budgeted in the City of Rogers' 2020 Budget; and

WHEREAS, Axon Enterprises, Inc. of Scottsdale, Arizona is the only manufacturer of these types of tasers.

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

Section 1: That the Mayor and City Clerk are authorized to enter into a contract with Axon Enterprises, Inc. of Scottsdale, Arizona, in the amount of thirty-one thousand six hundred ninety six dollars and ninety seven cents (\$31,696.97), for the purchase of eighteen tasers and associated equipment and warranties;

Section 2: There exists an exceptional circumstance whereby the requirements of competitive bidding are neither practical nor feasible and the City Council, therefore, waives the requirements of competitive bidding for the purchase of the tasers for use by the Rogers Police Department;

Section 3 - Emergency Clause: The need to acquire the tasers and associated equipment and warranties for the Rogers Police Department is immediate and in order to protect the public peace, health, safety, and welfare an emergency is hereby declared to exist and this Ordinance shall be in full force and effect from the date of its passage and approval;

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

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

PASSED this _____ day of _____, **2020**.

APPROVED:

C. GREG HINES, Mayor

Attest:

JESSICA RUSH, City Clerk

Requested by: Hayes Minor, Chief – Rogers Police Department

Prepared by: John M. Pesek, Staff Attorney

RESOLUTION NO. R20-_____

A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE A CONTRACT FOR WATER SERVICE WITH THE CITY OF LOWELL; AND FOR OTHER PURPOSES.

WHEREAS, The City of Rogers, through the Rogers Waterworks and Sewer Commission and the Rogers Water Utilities, has provided water service to certain portions of the City of Lowell, Arkansas (“City of Lowell”) pursuant to that certain Contract entered into on January 9, 1990 between the City of Rogers, through the Rogers Waterworks and Sewer Commission, on the one hand, and the City of Lowell, on the other hand (“the 1990 Contract”); and;

WHEREAS, the 1990 Contract had a term of thirty years and a new contract between the parties is needed; and

WHEREAS the management of the Rogers Water Utilities and representatives of Lowell have negotiated the terms of a new proposed “Contract for Water Service,” which is attached hereto as Exhibit 1; and

WHEREAS, the City Council of the City of Lowell has passed its Resolution 19-49 authorizing the Mayor of the City of Lowell to execute the Contract for Water Service on behalf of the City of Lowell; and

WHEREAS, the Rogers Waterworks and Sewer Commission has passed its Resolution No. 20-1 recommending that the Rogers City Council authorize the Mayor and City Clerk to execute the Contract for Water Service on behalf of the City of Rogers.

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

Section 1: The Mayor and City Clerk are hereby authorized to sign the Contract for Water Service on behalf of the City of Rogers. The Mayor and City Clerk are authorized to approve the final form and content of the Contract for Water Service, their approval to be evidenced by their signatures thereon.

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

Section 3-Repeal of Conflicting Resolutions: All resolutions of the City Council, or parts of resolutions of the City Council, in conflict herewith are hereby repealed to the extent of such conflict.

RESOLVED this _____ day of _____, 2020.

APPROVED:

C. GREG HINES,
Mayor

Attest:

JESSICA RUSH, City Clerk

Requested by: Rogers Waterworks and Sewer Commission and Rogers Water Utilities

Prepared by: Robert A. Frazier, Counsel for Rogers Waterworks and Sewer Commission and Rogers Water Utilities

CONTRACT FOR WATER SERVICE

This Contract for Water Service ("this Contract") is entered into by and between the City of Rogers, Arkansas, a municipal corporation, ("the City of Rogers") acting through the Rogers Waterworks & Sewer Commission of the City of Rogers, Arkansas ("the Commission") in turn, acting through the Rogers Water Utilities of the City of Rogers, Arkansas ("the Rogers Water Utilities), all of which together are referred to collectively as "Rogers," and the City of Lowell, Arkansas, hereinafter referred to as "Lowell." Rogers, and each of its constituent components, and Lowell are each individually referred to as a "party" and are referred to collectively as "the parties" to this Contract.

WITNESSETH:

WHEREAS, Rogers owns and operates a public water system, a portion of which is located within the corporate limits of Lowell; and

WHEREAS, Rogers and Lowell are parties to that certain contract between them dated the 9th day of January 1990, said contract having a term of thirty (30) years and being due to expire on or about the 8th day of January 2020 ("expiring contract"); and

WHEREAS, Rogers and Lowell have negotiated the terms and conditions of this Contract and have reached mutually agreeable terms and conditions as set forth herein; and

WHEREAS, Rogers and Lowell desire to enter into this Contract, which, as of its effective date, replaces and supersedes the expiring contract.

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

CONTRACT

1. **Recitals Incorporated.** The above recitals are material and incorporated into this Contract.

2. **Definitions.** As used in this Contract, the following terms have the following meanings, except where the context clearly indicates a different meaning.

Lowell Customer or Lowell Customers shall mean a person or persons receiving water service from the Rogers Water Utilities at locations within the corporate limits of Lowell, Arkansas.

Person means any individual, any corporation, partnership, association, improvement district, property owners' association, property developer, public agency, or any other entity organized under the laws of any state or any subdivision or instrumentality of a state, and any employee, agent, or legal representative thereof.

Rogers Water Utilities means the municipal water and sewer utility of the City of Rogers, Arkansas, consisting of the Water Department and the Sewer Department, operated under common management, and being supervised by the Rogers Waterworks and Sewer Commission of the City of Rogers, Arkansas, a combined waterworks and sewer commission established by City of Rogers Ordinance No. 86-10, codified at Section 54-1, *et. seq.* of the Code of Ordinances of the City of Rogers, Arkansas.

Rogers Water Service Area means the geographical area in which the Rogers Water Utilities provides water service, or claims the right to provide water service, and which the Rogers Water Utilities may report as its service area, as applicable, to adjacent water systems, the Arkansas Department of Health, the Arkansas Natural Resources Commission, or other government agencies.

Rogers Water System means the public water system operated by the City of Rogers through the Rogers Waterworks and Sewer Commission and the Rogers Water Utilities, including, without limitation, the portion of Rogers' public water system located within the corporate limits of Lowell, Arkansas.

3. Franchise and Easements

3.1 *Franchise.* The franchise granted to Rogers in connection with the expiring contract and described in Section 4 of the expiring contract is hereby renewed for a period of twenty (20) years from the effective date of this Contract. Rogers, without charge or a franchise tax, shall have a franchise to maintain and operate within Lowell's corporate limits a water distribution system. On or before the effective date of this Contract, Lowell will pass any ordinance or resolution necessary to effectuate the renewed franchise granted herein. Lowell further agrees to prohibit all other water purveyors, public or private, from extending water lines into the portion of Rogers' water service area located within the corporate limits of Lowell, except for any lines that existed at the effective date of the expiring contract (January 9, 1990).

3.2 *Public Easements.* The public easements granted to Rogers in the expiring contract are hereby renewed and reaffirmed. Rogers, without charge or costs, shall have an easement and right of way to locate, relocate, lay, construct, re-construct, remove, enlarge, expand, maintain, inspect, patrol, repair, replace, use, and operate utility lines and/or pipelines, including, but not limited to, water lines, water main lines, and all facilities and appurtenances thereto, including but not limited to, above and below ground valves and piping, meter equipment, manholes and all other necessary appurtenances, and to perform all other tasks pertaining to said utility lines and/or pipelines, together with the right of ingress and egress to and from same, on, over, across, under, and alongside public streets, alleys, utility easements, and passageways within the corporate limits of Lowell. All previous public easements granted in connection with the expiring contract are hereby reaffirmed.

3.3 *Private Easements.* Rogers may not lay a waterline or lines across private property within the corporate limits of Lowell without first obtaining an easement document executed by the owners of such property granting to Rogers the right to lay such waterlines across such private property. Such easements shall be on forms prescribed by Rogers Water Utilities. In the event Rogers cannot obtain any necessary easement or easements by agreement, Rogers shall have the right to exercise its powers of eminent domain as permitted by law.

4. Water Supply

4.1 During the term of this Contract and any extensions or renewals thereof, Rogers shall supply potable water to those locations within Lowell's corporate limits that are located in Rogers' water service area, said water service area being described in Paragraph 4.2 below. Rogers will not unreasonably withhold service from any Lowell customer desiring service within the Rogers water service area. However, Rogers has no obligation to serve any location within Lowell's corporate limits that is located outside of Rogers' water service area or an any area that is within the service boundary of another water utility, including, without limitation, the Springdale Water Utilities. In accordance with Ark. Code. Ann. § 14-234-110, Rogers shall not be obligated to supply any fixed amount of water or water pressure to Lowell customers, nor shall Rogers be obligated to increase the number or size of, or change the location of, any mains or pipes outside the corporate limits of Rogers.

4.2 *Water Service Area.* Rogers Water Service Area is shown on a map marked as Exhibit 1, which is attached hereto and incorporated herein by reference. The portion of Rogers Water Service area located within Lowell's corporate limits is that portion of the City of Lowell located within the "Proposed RWU Service Boundary" as stated in the "Service Boundary Description" on Exhibit 1, the borders of said service boundary being denoted by a solid blue line. In the event Rogers Water Service Area changes in the future, this paragraph of this Contract and the accompanying exhibit may be amended by mutual agreement of the parties. Nothing in this section shall alter the agreement between Rogers and Lowell which prohibits the involuntary removal of the territory of one of the parties to this agreement to the other through any annexation process. Rogers and Lowell expressly acknowledge this agreement and acknowledge that any annexation of territory from one of the parties to this agreement to the other shall be by agreement of the Rogers and Lowell city councils memorialized in a duly passed ordinance or resolution.

4.3 *Fire Hydrants.* Rogers agrees that it will require to be installed, at appropriate intervals, on the portion of its water system located within the corporate limits of Lowell, fire hydrants on all new distribution lines for fire protection to Lowell customers. Hydrants may be installed, at Lowell's sole cost and expense, on existing water mains, provided adequate capacity exists. Rogers agrees to furnish Lowell unmetered water service at each hydrant for fire protection. Lowell will pay to the Rogers Water Utilities Twenty-Five Dollars (\$25) per annum per each existing hydrant and Twenty-Five Dollars (\$25) per annum per each new hydrant during each year of this Contract to defray the cost of unmetered water used for fire protection. The annual price per hydrant may be adjusted annually during each year of this Contract by written notice given by Rogers to Lowell, said notice being given not later than September 1st of any year of this Contract to be effective on January 1st of the next year of this Contract. Any annual price increase per hydrant shall not exceed 3% of the then existing price.

4.4 *Conditions of Performance.* Rogers agrees to operate and maintain the Rogers water system in an efficient manner and will take such action as may be determined by Rogers to be necessary to furnish Lowell customers with a supply of water as set forth herein. Emergency failures of system pressure or supply due to water supply line breaks, power failures, floods, fires, earthquakes, Acts of God, public enemies, accidents, strikes, wars, acts of terrorism, orders of a Court or other catastrophes or events beyond the control of Rogers shall excuse Rogers from this provision for such reasonable period of time as may be necessary to restore service. Rogers shall not be held responsible for any damages of any kind, direct or indirect, from such interruption of service, or service failure. Temporary or partial failure to deliver water shall be remedied with all possible dispatch. In the event of an extended shortage of water, or the supply of water available to Rogers is otherwise diminished, the supply of water to Lowell customers shall be reduced or diminished in the same ratio or proportion as the supply to Rogers' other water customers is reduced or diminished.

5. Customer Service, Rates, Fees, and other Charges

5.1 *Customer Relationship.* Lowell Customers will continue to contract directly with the Rogers Water Utilities for water service. Provision of water service to Lowell customers will be subject to all applicable Ordinances of the City of Rogers, the rules, regulations, procedures, and specifications of the Rogers Waterworks and Sewer Commission and the Rogers Water Utilities, as they now exist or as they may be hereafter amended, and any applicable customer service agreements, the form of such customer service agreements to be prescribed by the Rogers Water Utilities. Rogers Water Utilities will read meters in Lowell at least once every thirty (30) days and render a statement to each Lowell customer in accordance with its usual procedures and practices. In the event any Lowell customer fails or refuses to pay any bill when due, Rogers may discontinue water service to that customer in accordance with its usual ordinances, rules, regulations, procedures, and practices.

5.2 *Service Extensions.* Extensions of water service within the corporate limits of Lowell shall be made on the same basis on which they are made within the corporate limits of Rogers, including without limitation, considerations of the economic feasibility of such extension, the willingness and ability of the person or persons requesting the extension to pay for the cost of the extension, and the growth and development plans for the Rogers' water system, as expressed in any applicable masterplan or other planning document. The determination of whether to make an extension will be at the sole discretion of Rogers acting through the Rogers Water Utilities and the Rogers Waterworks and Sewer Commission. Any extension will be made in accordance with Rogers Water Utilities' standard contract for facilities extensions, as it exists now, as it may be hereafter amended, or as is it may be modified for use in any particular case. Rogers will have no obligation to extend water service to any location outside of Rogers' water service area or to any area that is within the service boundary of another water utility, including, without limitation, the Springdale Water Utilities. All extensions, and any requests for extensions, will be governed by applicable law and regulations.

5.3 *Rates.* Water service to Lowell customers will continue to be charged at the "outside city" schedule of rates as specified in the Code of Ordinances of the City of Rogers as it now exists or as it may be hereafter amended. In the event Rogers amends any applicable schedules of rates, such amendment shall automatically apply to the rates charged for water service to Lowell customers.

5.4 *Fees, Deposits, Costs, and Charges.* Water service to Lowell customers will continue to be subject to fees, deposits, and other costs and charges at "outside city" prices as specified by the Rogers Waterworks and Sewer Commission or the Rogers Water Utilities, as such fees, deposits, and

other costs and charges may exist now, or as they may be hereafter amended. In the event Rogers amends any applicable schedule of fees, deposits, and other costs and charges, such amendment shall automatically apply to locations within the corporate limits of Lowell and to Lowell customers.

5.5 *Impact Fees and Access Fees.* New water service to customers located in Lowell will continue to be subject to impact fees and access fees as specified in the Code of Ordinances of the City of Rogers as it now exists or as it may be hereafter amended. In the event Rogers amends its schedules of impact fees and access fees, such amendment shall automatically apply to locations within the corporate limits of Lowell and to Lowell customers.

5.6 *Taxes and Fees.* The Rogers Water Utilities will continue to collect from Lowell customers sales taxes, public water system fees, and any other applicable taxes and fees, as required by law.

5.7 *Customer Requests, Comments, Concerns, Complaints; Appeals.* As customers of the Rogers Water Utilities, Lowell customers may address requests, comments, concerns, and complaints to the appropriate officials of the Rogers Water Utilities, or as applicable, to the Rogers Waterworks and Sewer Commission, on the same basis as other customers of the Rogers Water Utilities. Lowell customers may appeal decisions of the Rogers Water Utilities to the Rogers Waterworks and Sewer Commission on the same basis as other customers of the Rogers Water Utilities.

6. Legal and Regulatory Compliance

6.1 *Compliance with applicable laws, ordinances, rules, regulations, procedures and specifications.* Lowell agrees to comply with all applicable state and federal laws, Ordinances of the City of Rogers, and all rules, regulations, procedures, and specifications of the Rogers Waterworks & Sewer Commission and the Rogers Water Utilities applicable to the provision of water under this Contract, and the construction, operation, maintenance and service of the Rogers water system. All such laws, ordinances, rules, regulations, procedures, and specifications shall be applied to all customers of the Rogers Water Utilities, including Lowell customers, in the same and consistent manner.

6.2 *Plumbing.* Without limiting the generality of the provisions of paragraph 6.1 above, each Lowell customer shall install all plumbing in accordance with Rogers' ordinances, rules, regulations, and specifications and in accordance with the Arkansas Plumbing Code and other rules and regulations of the Arkansas Department of Health in effect at the time such plumbing is installed. All plumbing shall be inspected by the City of Lowell plumbing inspector or his authorized agent. Rogers reserves the right to inspect any plumbing installation at its discretion. Fees and charges for Lowell's plumbing inspection will be set by Lowell and payment of such fees and charges are the responsibility of the Lowell customer. In the event that Rogers determines that it is necessary to also conduct a plumbing inspection in any particular case, fees and charges for Rogers' plumbing inspection will be set by the Rogers Water Utilities and will also be the responsibility of the Lowell customer or customers whose plumbing facilities receive the inspection.

6.3 *Conservation measures.* Without limiting the generality of the provisions of paragraph 6.1 above, in the event mandatory conservation and/or rationing measures are implemented within the Rogers water system, such measures shall also apply to Lowell and Lowell customers. Lowell, on behalf of itself, its residents, and Lowell customers, covenants and agrees that it will accept and participate in any program where water rationing may become necessary due to an emergency resulting

from drought, limited supply of water, failure of transportation system, pumping equipment, plant equipment, electrical facilities or any other cause beyond the control of Rogers.

6.4 *Covenants of Lowell.* Lowell covenants and agrees that it will not permit interconnections to Rogers facilities to any other source of water or permit its residents to interconnect a well, or wells, public or private, with any other distribution system while connected to and using water from Rogers' system. Lowell further covenants and agrees that all facilities constructed by Lowell; or by any third party, which are connected to Rogers' water system, shall be constructed and/or improved in accordance with the rules and regulations of the Arkansas Department of Health. Lowell will comply with the rules and regulations of the Arkansas Department of Health. Lowell has adopted and shall enforce the State Plumbing Code. As requested, Lowell shall assist Rogers in enforcing Rogers' cross-connection control policy. Lowell understands and agrees that the maintenance of an approved water supply of Rogers is essential to the health and well-being of Rogers, Lowell, and the public at large. If Lowell fails to comply with and 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 Rogers or the Rogers water system, then Rogers shall have the right to terminate this Contract upon notice to Lowell.

6.5 *Legislation.* Lowell agrees to adopt such resolutions, ordinances, rules and regulations as will allow Rogers to maintain and operate the Rogers water system in accordance with the Ordinances, rules, regulations, and specifications of Rogers and the Arkansas State Board of Health. Noncompliance with said rules, regulations, and specifications, may result in discontinuance of service to all or any part of Lowell.

6.6 Failure or refusal of any Lowell customer to comply with applicable laws, ordinances, rules, regulations, procedures, and specifications shall be grounds for immediate discontinuance of water service to that customer. Rogers shall in no way be liable for any damages or expenses which may result from such discontinuance. Rogers reserves the right to discontinue the supply of water to any Lowell customer without notice for any of the following reasons:

- (a) fraudulent representation as to the condition of any plumbing system where the fraudulent representation involves matters that relate to the protection and safety of Rogers water supply or Rogers water system;
- (b) improperly connected appliances and fixtures resulting in hazardous or defective conditions;
- (c) emergencies where damages to property, equipment or life is possible or likely to occur;
- (d) any order of the Arkansas State Board of Health, Arkansas Health Department, or other governmental authority having jurisdiction;
- (e) violation of any rules and regulations relating to the safety and protection of the public water supply promulgated by the Arkansas State Board of Health, Arkansas Health Department, or any other governmental authority having jurisdiction;
- (f) violation of any Rogers' ordinances, rules, regulations, procedures, and specifications relating to the safety and protection of the public water supply or of the Rogers water system.

7. Term and Termination

7.1 *Term of Contract.* This Contract shall become effective and enforceable the 1st day of January 2020 ("effective date") and, unless otherwise terminated in accordance with other provisions of this Contract, this contract shall remain in full force and effect for a term of twenty (20) years from and after the effective date. The parties hereto shall have the option to renew this Contract upon mutually agreeable terms and conditions as may be negotiated by Rogers and Lowell at that time.

7.2 *Termination of Contract for Cause.* This Contract may be terminated by either party in the event the other party fails to perform its obligations under this Contract. Prior to termination for cause, the party asserting a breach shall give the other party written notice describing the other party's breaches. The party against whom a breach is asserted shall then have thirty (30) days to cure all breaches. If that party's breaches are not cured within this time limit, then the party asserting the breach may proceed to terminate this Contract by giving written notice of termination to the other party. Termination is not a party's exclusive remedy and either party may further seek all other legal and equitable remedies available to it arising from the other party's breach.

8. Additional Provisions

8.1 *Ownership.* At all times, Rogers shall retain ownership of the portion of its water system located within the corporate limits of Lowell. Lowell disclaims the benefit of any law that would permit it to purchase the portion of Rogers water system located within the corporate limits of Lowell.

8.2 *Tort Immunity.* Nothing in this Contract shall operate as, or be construed as, a waiver, limit, modification, nullification, or alteration, of the tort immunity and other rights and immunities granted to the City of Lowell, Arkansas, the City of Rogers, Arkansas, the Rogers Waterworks and Sewer Commission, and the Rogers Water Utilities pursuant to Ark. Code. Ann. §21-9-301 and other applicable law.

8.3 *No Joint Venture; No Third-Party Beneficiaries.* This Contract is made at arm's length between independent contracting parties. Nothing in this Contract shall be deemed to create a joint venture, partnership, tenancy in common, joint tenancy, or any similar relationship between the parties or require either party to engage in further business relationships between the parties. The parties further agree that there are no third-party beneficiaries of this Contract and that no person or entity, other than the parties hereto (and in the case of Rogers, the Rogers Waterworks and Sewer Commission and the Rogers Water Utilities) shall have standing to enforce the terms of this Contract.

8.4 *Certification of Compliance with Ark. Code. Ann. § 25-1-503.* Pursuant to Ark. Code. Ann. § 25-1-503, each of the parties hereto certifies that it is not currently engaged in a boycott of Israel. Each party further agrees for the duration of the Contract not to engage in a boycott of Israel.

8.5 *No Assignment of Rights or Delegation of Duties.* Neither party shall assign its rights under this Contract without the express written permission of the other party. Nor shall either party delegate its duties under this Contract without the express written permission of the other party.

8.6 *Compliance with Law.* Each of the parties hereto is responsible for securing whatever permits, licenses, permissions, certificates, etc. required for the activities undertaken by that party pursuant to this Contract. Each of the parties hereto states that it will at all times operate in compliance with all applicable, local, state and federal laws and/or regulations and will not act under this Contract to cause any other party to violate any applicable local, state or federal laws or regulations. Any party may seek declaratory relief concerning its rights and obligations with respect to this Contract.

8.7 *Notices.* Any notice or communication required or permitted (other than routine communications between the parties' representatives for coordination, scheduling, and the like, which may be sent by electronic mail or made by telephone) to be given shall be in writing and shall be deemed to have been given (i) when received if personally delivered; (ii) three (3) days after being sent by certified mail, return receipt requested, postage prepaid; or (iii) one (1) day by express courier (e.g. FedEx), if receipt is confirmed by the delivery agent, at the following addresses (or such other address as may be designated).

If given to Rogers, notice shall be sent to:

Mayor, City of Rogers, Arkansas
301 W. Chestnut St.
Rogers, AR 72756

with copies to:

Chairman
Rogers Waterworks and Sewer Commission
601 South 2nd Street
Rogers, AR 72756

Superintendent
Rogers Water Utilities
601 South 2nd Street
Rogers, AR 72756

If given to Lowell, notice shall be sent to:

Mayor, City of Lowell, Arkansas
216 N. Lincoln Street
Lowell, AR 72745

with copies to

Special Services Director
City of Lowell, Arkansas
216 N. Lincoln Street
Lowell, AR 72745

8.8 *Choice of Law and Venue.* This Contract shall be governed by the laws of the State of Arkansas without regard to its principles of conflict of laws. Venue for any action concerning this Contract shall be the state or federal courts embracing Benton County, Arkansas.

8.9 *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.

8.10 *Complete Contract.* This Contract constitutes the entire Contract between the parties, and it shall not be hereafter amended or modified unless reduced to writing and signed by the parties hereto. It is further agreed that all earlier Contracts of the parties concerning this subject matter are hereby rescinded.

8.11 *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.

8.12 *Each Party Relying on its Own Counsel.* Each party hereby represents and warrants that it has received the advice of its own legal counsel in connection with the negotiation and preparation of this Contract (or that it has had the opportunity to do so) and that it is not relying upon the other party or the other party's counsel in reaching its decision to enter into this Contract.

8.13 *Each Party Deemed a Drafter of the Contract.* Each party hereby represents that they have cooperated in drafting and preparing this Contract, and/or have had the opportunity to do so. Hence, no party will construe against any other party any ambiguity in this Contract. Each party to this Contract represents to the other that it has not relied upon any statement of any other party in executing this Contract, except as expressly stated in this Contract.

8.14 *Multiple Counterparts.* This Contract may be executed in two counterparts, each of which shall be an original and which together constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have executed these presents by their respective authorized representatives, having been authorized to do so by appropriate resolution or ordinance.

[signature pages follow]

CITY OF ROGERS, ARKANSAS

By: _____
Greg Hines, Mayor
CITY OF ROGERS

Attest:

Jessica Rush, City Clerk

Date: _____

By:

THE ROGERS WATERWORKS AND SEWER COMMISSION OF THE CITY OF ROGERS,
ARKANSAS

By: _____
Kathy McClure, Chairman

Attest:

Brent Dobler, Acting Secretary

THE ROGERS WATER UTILITIES OF THE CITY OF ROGERS, ARKANSAS

By: _____
Brent Dobler, Superintendent

Attest:

Jennifer Lattin, Controller

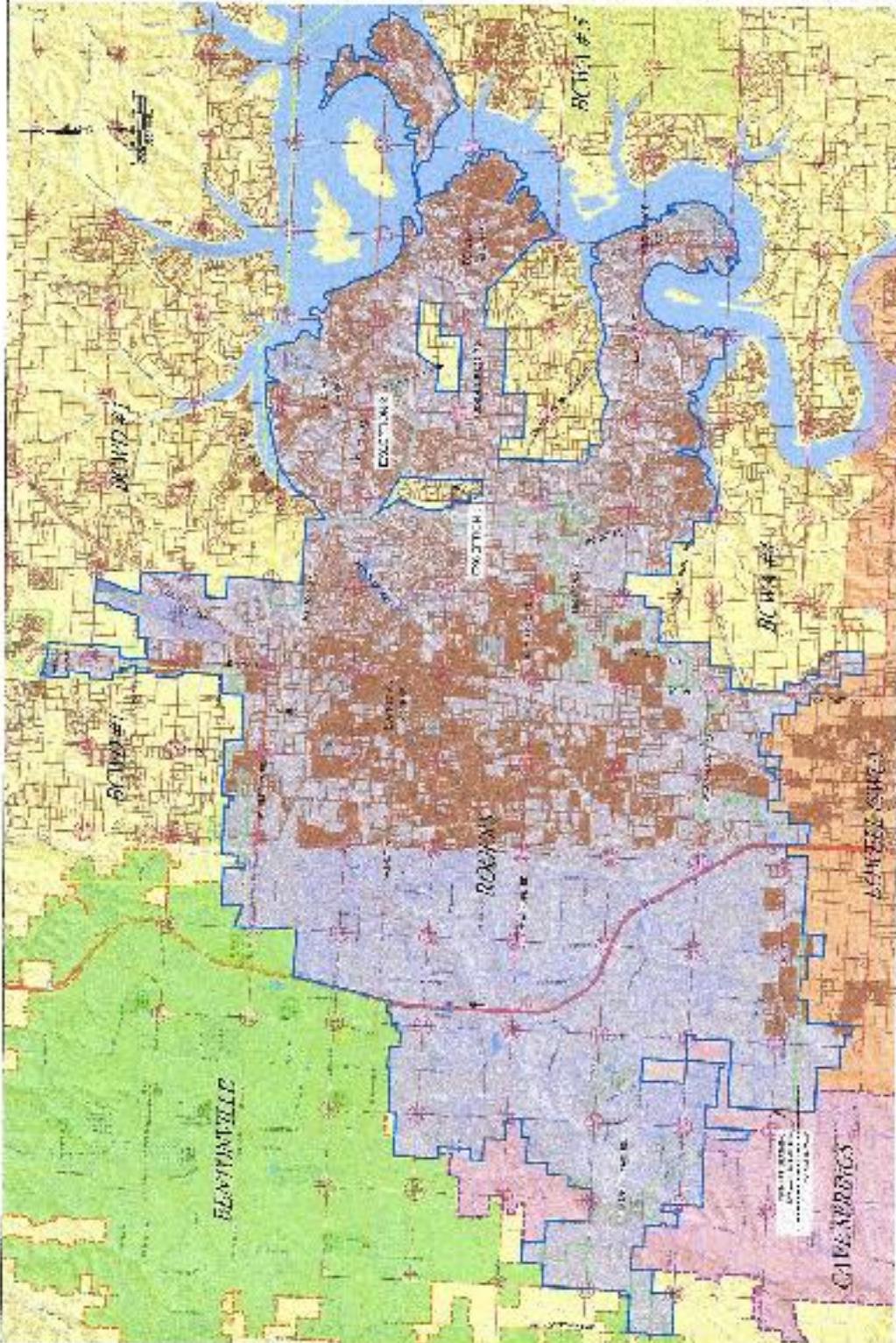
CITY OF LOWELL, ARKANSAS

By: _____
Chris Moore, Mayor

Attest:

City Clerk

EXHIBIT 1 to
Contract for Water Service



Source: U.S. Department of Commerce, Bureau of Economic Analysis, 1992.

TABLE 1
 Land Use and Population in the Atlanta Metropolitan Area, 1992

Land Use Category	Area (sq. miles)	Population (1992)	Population Density (per sq. mile)
Total	1,000	2,500,000	2,500
Residential	600	1,800,000	3,000
Commercial	100	500,000	5,000
Industrial	100	200,000	2,000
Parks and Recreation	100	50,000	500
Water	100	0	0

LEGEND

- Water
- Industrial
- Commercial
- Residential
- Parks and Recreation

SCALE

0 1 2 3 4 5 Miles

UNITED STATES GEOLOGICAL SURVEY

ATLANTA, GEORGIA

1:50,000

1992

This map shows the land use and population in the Atlanta metropolitan area in 1992. The map is color-coded by land use type: green for parks and recreation, yellow for residential, purple for commercial, blue for water bodies, and brown for industrial. Major roads and highways are shown in red and black. The map includes a grid of latitude and longitude lines and a north arrow in the top right corner. Labels for various areas include ATLANTA, DECATUR, ROSWELL, GAITHERSBURG, ANDALUSIA, and LAWRENCEVILLE. A scale bar is located at the bottom right of the map area.

ORDINANCE NO. 20-_____

AN ORDINANCE WAIVING COMPETITIVE BIDDING FOR THE REPAIR OF THE ROGERS AQUATIC CENTER'S LAZY RIVER FROM MULTI-CRAFT CONTRACTORS, INC. OF SPRINGDALE, ARKANSAS; ALLOWING THE MAYOR AND CITY CLERK TO ENTER INTO THE REPAIR CONTRACT; PROVIDING FOR THE EMERGENCY CLAUSE; AND FOR OTHER PURPOSES.

WHEREAS, the Rogers Parks & Recreation Department needs to repair the lazy river at the Rogers Aquatic Center;

WHEREAS, this repair work will be made from Account #100-08-70430 Swimming Pool Maintenance and was approved and budgeted in the City of Rogers' 2020 Budget;

WHEREAS, Multi-Craft Contractors, Inc. has given an estimated costs of repairs of twenty-one thousand three hundred ninety two dollars (\$21,392.00); and

WHEREAS, Multi-Craft Contractors, Inc. of Springdale, Arkansas, has performed repairs to the lazy river in the past and is familiar with the lazy river's unique structure and the work required for its repair.

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

Section 1: That the Mayor and City Clerk are authorized to enter into a contract with Multi-Craft Contractors, Inc. of Springdale, Arkansas, in the amount of twenty-one thousand three hundred ninety two dollars (\$21,392.00), for the repair work to the lazy river at the Rogers Aquatic Center;

Section 2: There exists an exceptional circumstance whereby the requirements of competitive bidding are neither practical nor feasible and the City Council, therefore, waives the requirements of competitive bidding for the repair work to the lazy river at the Rogers Aquatic Center;

Section 3 - Emergency Clause: The need to acquire the patrol vehicle for the Rogers Parks & Recreation Department is immediate and in order to protect the public peace, health, safety, and welfare an emergency is hereby declared to exist and this Ordinance shall be in full force and effect from the date of its passage and approval;

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

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

PASSED this _____ day of _____, **2020.**

APPROVED:

C. GREG HINES, Mayor

Attest:

JESSICA RUSH, City Clerk

Requested by: Jim White, Director - Parks & Recreation Department

Prepared by: John M. Pesek, Staff Attorney

RESOLUTION NO. R20-_____

A RESOLUTION AMENDING THE 2020 BUDGET TO RECOGNIZE FUNDS FROM THE ARKANSAS DEPARTMENT OF HEALTH IN THE AMOUNT OF THIRTEEN THOUSAND NINE HUNDRED FIVE DOLLARS (\$13,905.00) INTO ACCOUNT #100-04-45305; AND APPROPRIATING THAT SAME AMOUNT INTO ACCOUNT #100-04-70861 STATE GRANT EXPENSE; AND FOR OTHER PURPOSES.

WHEREAS, the Rogers Fire Department received a grant in the amount of thirteen thousand nine hundred five dollars (\$13,905.00) from the Arkansas Department of Health to provide funds for the Rogers Fire Department to continue its pre-hospital readiness trauma training for EMS services.

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

Section 1: The 2020 Budget is hereby amended to recognize funds in the amount of thirteen thousand nine hundred five dollars (\$13,905.00) to Account # 100-04-45305 State Grant Revenue;

Section 2: The 2020 Budget is further amended to appropriate the amount of thirteen thousand nine hundred five dollars (\$13,905.00) to Account #100-04-70861 State Grant Expense;

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

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

RESOLVED this _____ day of _____, 2020.

APPROVED:

C. GREG HINES, Mayor

Attest:

JESSICA RUSH, City Clerk

Requested by: Tom Jenkins, Chief – Rogers Fire Department

Prepared by: John M. Pesek, Staff Attorney

RESOLUTION NO. R20-_____

A RESOLUTION AMENDING THE 2020 BUDGET TO RECOGNIZE FUNDS FROM THE ARKANSAS DEPARTMENT OF HEALTH, HEALTH PROTECTION SUBSTANCE MISUSE AND INJURY PREVENTION BRANCH IN THE AMOUNT OF NINE THOUSAND DOLLARS (\$9,000.00) INTO ACCOUNT #100-04-45305 STATE GRANT REVENUE; APPROPRIATING THAT SAME AMOUNT TO VARIOUS EXPENSE ACCOUNTS; AND FOR OTHER PURPOSES.

WHEREAS, the City of Rogers received nine thousand dollars (\$9,000.00) from the Arkansas Department of Health, Health Protection Substance Misuse and Injury Prevention Branch to assist in funding to educate and train first responders in the carrying and administration of nasal Narcan for the emergency treatment of a suspected or known opioid overdose.

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

Section 1: The 2020 Budget is hereby amended to recognize funds in the amount of nine thousand dollars (\$9,000.00) to Account #100-04-45305 State Grant Revenue;

Section 2: The 2020 Budget is further amended to appropriate funds in the following amounts to their appropriate accounts as stated in the table below:

Account #	Account Name	Funds
100-04-61110	Salaries and Wages – Overtime	\$6,247.00
100-04-61150	FICA Expense	\$91.00
100-04-61165	Retirement Expense- LOPFI	\$1,468.00
100-04-70005	Continuing Education	\$84.00
100-04-70100	Operating Supplies	\$1,110.00

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

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

RESOLVED this _____ day of _____, 2020.

APPROVED:

C. GREG HINES, Mayor

Attest:

JESSICA RUSH, City Clerk

Requested by: Tom Jenkins, Chief – Rogers Fire Department
Prepared by: John M. Pesek, Staff Attorney

RESOLUTION NO. R20-_____

A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO ENTER INTO A GRANT AGREEMENT WITH THE WALTON FAMILY FOUNDATION TO RECEIVE ONE HUNDRED FORTY-TWO THOUSAND SIX HUNDRED TWENTY-FIVE DOLLARS (\$142,625.00); AMENDING THE 2020 BUDGET TO RECOGNIZE GRANT FUNDS IN THE AMOUNT OF ONE HUNDRED FORTY-TWO THOUSAND SIX HUNDRED TWENTY-FIVE DOLLARS (\$142,625.00) INTO ACCOUNT #100-18-45600 GRANTS AND DONATIONS; APPROPRIATING THREE HUNDRED TWENTY THOUSAND TWO HUNDRED NINETY-FIVE DOLLARS (\$320,295.00) TO VARIOUS EXPENSE ACCOUNTS FROM GRANT FUNDS AND GENERAL FUND RESERVES; AND FOR OTHER PURPOSES.

WHEREAS, the City of Rogers will receive up to one hundred forty-two thousand six hundred twenty-five dollars (\$142,625.00) in grant funds from the Walton Family Foundation to support the creation of a “Manager of Arts and Culture” position for the City of Rogers;

WHEREAS, the “Manager of Arts and Culture” position is to be for a limited term of 3 years for the purposes of this Resolution and no future commitments to the sustainability of the position are being guaranteed past this Resolution’s 3 year commitment; and

WHEREAS, the Grant award is to be spread over the next 3 City budget years and the Walton Family Foundaton is providing a 45% matching grant, where the City will match the grant funds with General Fund reserves of 55% of the salary and benefits for the new position.

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

Section 1: The Mayor and City Clerk are hereby authorized to enter into a 45/55 matching grant agreement between the City of Rogers and the Walton Family Foundation in which the City shall accept up to one hundred forty-two thousand six hundred twenty-five dollars (\$142,625.00) in grant funds to support the creation of a “Manager of Arts and Culture” position with an estimated total cost of three hundred twenty thousand two hundred ninety-five (\$320,295.00) over the City’s next 3 budget years;

Section 2: The 2020 Budget is hereby amended to recognize grant funds in the amount of one hundred forty-two thousand six hundred twenty-five dollars (\$142,625.00) into Account #100-18-45600 Grants and Donations;

Section 3: The 2020 Budget is further amended to appropriate three hundred twenty thousand two hundred ninety-five dollars (\$320,295.00) to various accounts as noted below:

Salaries and Wages	100-18-60105	\$ 236,236
FICA	100-18-61150	\$ 18,072
APERS	100-18-61155	\$ 36,192
Interfund Transfer Out to	100-01-72101	\$ 29,795
Health Fund (Health Insurance)		

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

Section 5 - Repeal of Conflicting Resolutions: All Resolutions or orders of the City Council, or parts of Resolutions or orders of the City Council, in conflict with this Resolution are repealed to the extent of such conflict.

RESOLVED this _____ day of _____, 2020.

APPROVED:

C. GREG HINES, Mayor

Attest:

JESSICA RUSH, City Clerk

Requested by: John McCurdy, Community Development Director

Prepared by: John M. Pesek, Staff Attorney