

**RESOLUTION NO. 2026-\_\_\_\_**  
**CITY OF TONTITOWN, WASHINGTON COUNTY, ARKANSAS**

**A RESOLUTION DETERMINING THAT THE ACQUISITION OF CERTAIN REAL PROPERTY INTERESTS IS NECESSARY FOR A PUBLIC USE IN CONNECTION WITH THE FLETCHER ROAD PROJECT; AUTHORIZING THE ACQUISITION OF THOSE INTERESTS BY EMINENT DOMAIN; AUTHORIZING THE FILING AND PROSECUTION OF A CONDEMNATION ACTION; AND FOR OTHER PURPOSES.**

WHEREAS, the City of Tontitown, Arkansas (the “City”), is undertaking the Fletcher Road Project (the “Project”) to construct, improve, widen, repair, maintain, and provide public access, drainage, utilities, and related roadway infrastructure along Fletcher Road; and

WHEREAS, the Project constitutes a lawful public use and public purpose and is intended to promote public safety, mobility, access, drainage, utility service, and the safe and efficient operation of the City’s public infrastructure; and

WHEREAS, the plans and surveys prepared for the Project establish that the City must acquire the Permanent Right of Way described in Exhibit A to this Resolution (the “Property Interest”), affecting Washington County Parcel No. [630 South Klenc] and property owned of record by [A and J Real Estate Holdings, LLC] (the “Owner”); and

WHEREAS, the City Council has reviewed or been advised concerning the Project plans, the location and extent of the Property Interest, reasonably available alternatives, and the need for the Property Interest, and finds that acquisition of the Property Interest is reasonably necessary to complete the Project and that the Project cannot practicably be completed as designed without the Property Interest; and

WHEREAS, the City obtained an appraisal or other legally appropriate valuation of the Property Interest and caused a written offer of just compensation to be delivered to the Owner on or about [April 30, 2027]; and

WHEREAS, the City, through its representatives, has made a good-faith effort to acquire the Property Interest voluntarily, but the parties have been unable to complete a voluntary acquisition after a second meeting with property owners on May 29, 2027: and after that meeting the offer was rejected with no agreement reached and no agreement was reached]; and

WHEREAS, delaying acquisition of the Property Interest may delay or impair completion of the Project, increase project costs, and adversely affect the public interest; and

WHEREAS, the City has available or lawfully appropriated funds sufficient to pay the court-ordered deposit, just compensation, damages, litigation expenses, and other costs reasonably necessary to acquire the Property Interest and complete the Project; and

WHEREAS, Arkansas law authorizes municipal corporations to condemn private property for lawful public purposes, including the public purposes described in this Resolution, and the City Council finds that it is necessary and in the best interests of the City and its residents to exercise that authority as to the Property Interest.

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

**SECTION 1. Incorporation of Findings.** The recitals stated above are adopted as findings of the City Council and are incorporated into this Resolution as if fully set forth herein.

**SECTION 2. Public Use and Necessity.** The City Council finds and determines that: (a) the Project is a lawful public use and public purpose; (b) the Property Interest described in Exhibit A is reasonably necessary for the construction, completion, operation, maintenance, and protection of the Project; (c) the extent of the Property Interest is no greater than reasonably necessary for those purposes; and (d) acquisition of the Property Interest by eminent domain is necessary because voluntary acquisition has not been achieved after a good-faith effort.

**SECTION 3. Authorization to Condemn.** The acquisition of the Property Interest described in Exhibit A by exercise of the City’s power of eminent domain is hereby approved and authorized. This authorization is limited to the specific Property Interest described in Exhibit A and does not authorize the acquisition of any materially different or additional property interest without further approval of the City Council.

**SECTION 4. Condemnation Action.** The Mayor, City Attorney, and the City's duly engaged special counsel are authorized to prepare, file, and prosecute in the name of the City a condemnation action in the Circuit Court of Washington County, Arkansas, against the Owner and all other persons or entities having or claiming an interest in the affected property. Counsel may amend pleadings to correctly identify owners, lienholders, parties in possession, and other interested parties, provided that no amendment materially enlarges the Property Interest authorized by this Resolution.

**SECTION 5. Deposit and Possession.** The Mayor, appropriate City officials, including the City's duly engaged special counsel, are authorized to cause the City to deposit with the court the amount ordered or otherwise required by law as estimated just compensation and damages and, upon entry of an appropriate court order and satisfaction of all legal requirements, to obtain possession of and enter upon the Property Interest for purposes of the Project. No entry shall occur except as authorized by law, agreement, or court order.

**SECTION 6. Continuing Voluntary Acquisition.** City representatives and counsel may continue voluntary acquisition and settlement negotiations before and after the condemnation action is filed. No final settlement, agreed order, consent judgment, or other agreement fixing compensation or materially changing the Property Interest shall bind the City unless approved by the City Council, except to the extent the City Council has expressly delegated written settlement authority in advance.

**SECTION 7. Coordination and Litigation Authority.** Special counsel shall coordinate the representation with the City Attorney. The City Attorney and special counsel are authorized to take procedural and litigation actions reasonably necessary to protect the City's interests, including obtaining title work, service of process, expert testimony, appraisal updates, surveys, and other litigation support, subject to the scope of the applicable engagement agreement and the availability of lawfully appropriated funds.

**SECTION 8. Funding.** The City Clerk-Treasurer is authorized to draw and deliver checks or otherwise make lawful payments from City funds for court deposits, compensation, damages, professional fees, expert expenses, title expenses, filing fees, and other costs reasonably necessary to implement this Resolution, subject to applicable appropriation, accounting, and claims-approval requirements.

**SECTION 9. Technical Corrections.** The Mayor and City Attorney may approve nonmaterial corrections to names, parcel numbers, scrivener's errors, and legal descriptions if confirmed by the Project engineer or surveyor and if the corrections do not materially increase or alter the Property Interest authorized by the City Council.

**SECTION 10. Effective Date.** This Resolution shall be in full force and effect from and after its passage and approval.

**PASSED AND APPROVED on this \_\_\_\_\_ day of September 2026.**

**APPROVED:**

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Angela Russell, Mayor

**ATTEST:**

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Rhonda Ardemagni, City Clerk-Treasurer  
(SEAL)

**EXHIBIT A**  
**LEGAL DESCRIPTION AND DEPICTION OF PROPERTY INTEREST**

**Affected parcel: Washington County Parcel No. [PARCEL NUMBER]**

**Owner(s) of record: [FULL LEGAL NAME OF OWNER(S)]**

**[INSERT THE SEALED/SIGNED LEGAL DESCRIPTION OF THE PARTICULAR RIGHT-OF-WAY  
OR EASEMENT INTEREST HERE. ATTACH A SURVEY OR EXHIBIT DEPICTING THE TAKING  
WHEN AVAILABLE.]**

Drafting note: Confirm that this description matches the Project plans, appraisal, written offer, and proposed condemnation petition. Delete this note before adoption.

## SPONSORSHIP AND LEGISLATIVE HISTORY

Sponsor (Initiated By): \_\_\_\_\_

Motion to Introduce Made By: \_\_\_\_\_

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

Adopted / Passed: \_\_\_\_\_

Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Abstain \_\_\_\_\_ Absent \_\_\_\_\_

This legislative-history information is in addition to, and does not supersede, any authentication, attestation, signature, publication, recording, or other requirement imposed by state law or the Tontitown Municipal Code.