

RESOLUTION NO. 2026-_____

CITY OF TONTITOWN, WASHINGTON COUNTY, ARKANSAS

A RESOLUTION APPROVING THE AUSTIN PROPERTY IMPACT COMPENSATION AND RELEASE AGREEMENT FOR THE FLETCHER AVENUE EXTENSION WEST PROJECT; AUTHORIZING PAYMENT OF \$217,314.00 AND IMPLEMENTATION OF THE TRANSACTION; AND FOR OTHER PURPOSES

WHEREAS, the City of Tontitown is undertaking the Fletcher Avenue Extension West street project, Project No. T 24-110 (the “Project”), which will alter access and affect fencing, landscaping, drainage, and other improvements associated with the property at 572 S. Klenc Road, Parcel No. 830-37675-001, presently owned by Joseph and Audra Austin (the “Owners”);

WHEREAS, Arkansas law, specifically Arkansas Code Annotated § 14-54-101 authorizes municipalities to contract, and Arkansas Constitution article 2, § 22 protects private property from being taken, appropriated, or damaged for public use without just compensation;

WHEREAS, the Owners have requested monetary compensation in lieu of City-performed restoration for specified Project impacts, and the proposed Property Impact Compensation and Release Agreement, KJ revision dated October 13, 2026, version 5 (the “Agreement”), provides for a payment of \$217,314.00 in exchange for the specified release of claims, discharge of restoration obligations, and allocation of responsibilities;

WHEREAS, the City Council has considered the Agreement and its Exhibit C, the Austin beneficiary deed recorded as Washington County File No. 2026-3712, the September 30, 2026 Project impact plan Sheet EX-01, and the September 30, 2026 Engineer’s Opinion of Probable Cost prepared by Karstetter Johnston, PLLC, estimating restoration costs of \$253,635.00;

WHEREAS, the Tontitown City Council finds that the negotiated compensation, which is \$36,321.00 below the engineer’s estimated restoration cost, together with the release and allocation of responsibilities, constitutes a reasonable resolution of the identified Project impacts and serves the public purposes of completing the Project, maintaining coordinated access and drainage, and resolving potential compensation and restoration claims; and

WHEREAS, the Tontitown City Council intends to approve a compensated settlement of identified property impacts supported by contractual consideration, rather than a donation or gratuitous payment for private improvements.

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

Section 1. Approval & Incorporated Documents. The Agreement is approved, including the \$217,314.00 lump-sum compensation, the release of Covered Impacts, the Owners' restoration responsibilities, and the Retained City Work described therein. The following documents are incorporated into this Resolution: Attachment 1, the Agreement, including Exhibit C; Attachment 2, the Austin deed, to serve as Agreement Exhibit A; Attachment 3, Sheet EX-01 dated September 30, 2026, to serve as Agreement Exhibit B; and Attachment 4, the Engineer's Opinion of Probable Cost dated September 30, 2026, as supporting documentation. The engineer's estimate supports the Council's findings and does not replace Exhibit C or establish a separate payment obligation. All attachments shall accompany the Resolution presented for adoption, and the completed Agreement exhibits shall accompany the Agreement when executed.

Section 2. Execution and payment. The Mayor is authorized to execute the Agreement on behalf of the City, and the Clerk-Treasurer is authorized to attest as appropriate. The Mayor and Clerk-Treasurer shall cause payment of \$217,314.00 to Joseph and Audra Austin through the City's normal payment procedures within thirty days after Council approval and execution by all parties, as provided in the Agreement. Before execution, the Clerk-Treasurer shall confirm sufficient appropriated funds in the applicable Project account, and any required funding-agency approvals shall be obtained. This Resolution does not authorize payment from an unappropriated or ineligible source; any necessary budget amendment shall be presented to the Council before execution.

The attachments hereto have either been drafted or reviewed by the Tontitown City Attorney and do not require any further legal review if signed in present form.

Section 3. Allocation of work and implementation. The City Council approves the division of work and essential access, drainage, connection, inspection, acceptance, ownership, and maintenance requirements stated in the Agreement and its completed exhibits. The Mayor, with the City Engineer and affected departments, shall coordinate implementation, revise Project plans and bid or contract documents as necessary through lawful procedures, and avoid duplicate payment or performance for the same Covered Impacts. This Resolution does not itself amend the separately procured Project construction contract or authorize entry without an existing right, separate written permission, or other lawful authority.

Section 4. Culvert and public infrastructure. The City Council expressly approves the proposed installation of the 31 feet of elliptical storm pipe and two end sections at the new Klenc Road driveway entrance, subject to the Agreement's City standards, inspection, acceptance, ownership, and maintenance provisions. This Resolution does not waive applicable competitive-bidding or public-works requirements. If a separate procurement authorization is required, or if that work must be transferred to the City's Project construction contract, the necessary authorization and any resulting amendment to compensation or work allocation shall be submitted to the Council before execution.

Section 5. Proposed right-of-way vacation. The Mayor and City Engineer are authorized to initiate the applicable statutory process for proposed vacation of the unused

Fletcher Avenue right-of-way identified in Document No. 2023-00005178, approximately 0.30 acres, after Project completion as contemplated by Exhibit C. Any vacation remains subject to applicable notice, hearing, consent, public-interest determinations, and separate Council action. Neither this Resolution nor the Agreement constitutes a vacation or guarantees its approval.

Section 6. Administrative authority and amendments. The Mayor may complete dates, the Resolution number, and other ministerial information and approve non-substantive corrections consistent with this Resolution after City Attorney review. Any change to compensation, Covered Impacts, the release, material restoration responsibilities, or the City's substantive obligations requires further Council approval and a written amendment executed by the necessary parties. The City Engineer may coordinate performance within the approved terms but may not enlarge the City's financial or contractual obligations.

Section 7. Effective date. This Resolution takes effect upon adoption, subject to applicable mayoral veto procedures. The Agreement becomes effective only as provided in its terms, and the release and transfer of private-restoration responsibility become effective upon the Owners' receipt of payment.

THIS RESOLUTION PASSED AND APPROVED this _____ day of _____, 2026.

APPROVED:

Angela Russell, Mayor

ATTEST:

Rhonda Ardemagni, City Clerk-Treasurer
(SEAL)

SPONSORSHIP AND LEGISLATIVE HISTORY

Sponsor (Initiated By): _____

Motion to Introduce Made By: _____

Seconded By: _____

Adopted / Passed: _____

Vote: Ayes ____ Nays ____ Abstain ____ Absent ____

This requirement is in addition to, and does not supersede, any authentication, attestations, or signature requirements imposed by state law or other provisions of the Tontitown Municipal Code.