

IN THE CIRCUIT COURT OF BENTON COUNTY, ARKANSAS
CIVIL DIVISION

CITY OF BETHEL HEIGHTS

PLAINTIFF

vs.

NO. CV-15-_____

CITY OF SPRINGDALE,
GREGORY A. KENDRICK REVOCABLE
LIVING TRUST DATED OCTOBER 5, 2012, and
SHELLY KENDRICK

DEFENDANTS

COMPLAINT

COMES NOW the Plaintiff, the City of Bethel Heights (“**Bethel Heights**”), and for its Complaint against the City of Springdale (“**Springdale**”), the Gregory A. Kendrick Revocable Living Trust Dated October 5, 2012 (the “**Trust**”), and Shelly Kendrick (“**Kendrick**”), states and alleges as follows:

1. Bethel Heights is a municipal corporation located in Benton County, Arkansas.
2. Springdale is a municipal corporation located in both Benton and Washington Counties, Arkansas.
3. The Trust is an Arkansas trust. Gregory A. Kendrick is trustee of the Trust.
4. Kendrick is an individual residing in Benton County, Arkansas.
5. All actions relevant to this action occurred in Benton County, Arkansas. The property that is the subject of this lawsuit is located in Benton County, Arkansas.
6. This Court has jurisdiction over the parties and the subject matter herein. Venue is proper in this Court.

7. Kendrick is owner of 1161 Kendrick Avenue, Benton County, Parcel No. 20-00017-001, containing one acre more or less (“**Tract 1**”).

8. The Trust is owner of 69.68 acres, more or less, located at the northwest corner of Old Wire Road (State Highway 265) and Kendrick Avenue, Benton County, Parcel No. 20-0001-000 (“**Tract 2**”).

9. The Trust is owner of 16.49 acres, more or less, located at the southeast corner of Kendrick Avenue and N. Jefferson St., Benton County, Parcel No. 20-00017-000 (“**Tract 3**,” and together with Tract 1 and Tract 2, collectively known as the “**Property**”).

10. On December 16, 2014, counsel for the Trust and Kendrick submitted a formal statement for a request for services pursuant to Act 779 of 1999 (codified at Arkansas Code Annotated § 14-40-2001, *et seq.*) (the “**Request for Services**”). A true copy of the Request for Services is attached hereto as Exhibit A.

11. Pursuant to the Request for Services, the Trust and Kendrick sought municipal sewer service from Bethel Heights sufficient to provide not less than an 8” service main sufficient for industrial use to the Property.

12. Pursuant to Act 779 and the Request for Services, Bethel Heights was placed on notice and was requested to make a commitment, in writing, within 30 days, that Bethel Heights would take substantial steps within 180 days to making the requested service reasonably available to the Property.

13. On January 13, 2015, Bethel Heights accepted the Request for Services by virtue of correspondence (the “**Acceptance**”) from Bethel Heights’ City Attorney to counsel for the Trust and Kendrick. A true copy of the Acceptance is attached hereto as Exhibit B.

14. Bethel Heights' engineer determined that Bethel Heights could provide the requested services, and Bethel Heights accepted the written offer of the Trust and Kendrick to provide sewer system services for the Property.

15. Sewer service exists at the Property and can be provided by Bethel Heights.

16. Pursuant to Act 779 of 1999, Bethel Heights properly requested additional information from the Trust and Kendrick regarding the proffered "industrial use" of the Property. *See Exhibit A*, Request for Services, at p. 1; *Exhibit B*, Acceptance, at p. 1.

17. The Trust and Kendrick failed to provide such information regarding the industrial use of the Property, thereby failing to take appropriate steps to comply with reasonable requests of Bethel Heights in violation of Ark. Code Ann. § 14-40-2002(b)(D)(iii).

18. On Tuesday, March 10, 2015, the Springdale City Council considered an ordinance to annex the Property to Springdale.

19. On March 16, 2015, Springdale City Ordinance No. 4892, entitled An Ordinance Annexing Certain Real Property to the City of Springdale, Arkansas, Pursuant to Ark. Code Ann. § 14-40-2002 (Act 779 of 1999), and Making a Commitment to Provide Sewer Services to Said Property as Required by Ark. Code Ann. § 14-40-2002 (Act 779 of 1999) (the "**Ordinance**") was filed with the Circuit Clerk of Benton County at Book 2015, Page 11790. A true copy of said Ordinance is attached hereto as Exhibit C.

20. Bethel Heights was not given notice of the Ordinance or the Springdale City Council's consideration of the Ordinance.

21. Upon information and belief, the Ordinance was signed by the Mayor of Springdale on March 13, 2015, said Ordinance was dated March 10, 2015.

22. Pursuant to the Ordinance, Springdale committed to provide sewer services to the Property.

23. The Ordinance makes a judicial or quasi-judicial finding that Bethel Heights is unable to serve present sewer system capacity, and “cannot be expected to provide the additional capacity necessary to provide sanitary sewer service adequate for an industrial use on the Property . . . , thereby rendering Bethel Heights’ written commitment to provide sewer services untenable[.]”

24. The Ordinance improperly annexes the Property to Springdale.

25. Springdale annexed the Property prior to the 180 day period required by Act 779 of 1999 whereby Bethel Heights could have provided the requested services

26. The Ordinance makes an improper determination that is not contemplated or allowed by Act 779 of 1999.

Count I - Declaratory Judgment

27. Bethel Heights incorporates by reference all preceding paragraphs as if set forth herein word for word.

28. Arkansas Code Annotated § 16-111-103 provides that courts of record are granted the power to declare rights, status, and other legal relations between parties and furthermore, Rule 57 of the Arkansas Rules of Civil Procedure incorporates the declaratory judgment procedure as enumerated in Ark. Code Ann. § 16-111-101, *et seq.*, and further provides that a court may order a speedy hearing on the declaratory judgment action and advance the same on the calendar.

29. Bethel Heights prays that the Court declare the rights and status of the parties hereto and specifically declare the Ordinance void *ab initio*.

30. Bethel Heights further prays that the Court declare that the Property is located in Bethel Heights and not Springdale, and that the Trust, Kendrick, and Springdale have failed to comply with the requirements of Act 779 of 1999.

Count II - Appeal Pursuant to District Court Rule 9

31. Bethel Heights incorporates by reference all preceding paragraphs as if set forth herein word for word.

32. On March 10, 2015, the Springdale City Council made a judicial or quasi-judicial determination that Bethel Heights' "step system" is such that its sanitary sewer system is unable to serve present capacity and cannot be expected to provide the capacity necessary for industrial use on the Property.

33. On March 10, 2015, the Springdale City Council further made the wrongful determination that Bethel Heights' written Acceptance was untenable.

34. The Trust and Kendrick violated Act 779 of 1999 by not allowing Bethel Heights 180 days to make the requested services reasonably available, and further violated Act 779 by virtue of seeking annexation of the Property by Springdale, resulting in a de facto intentional termination of the Act 779 process such that appeal is proper pursuant to Rule 9 of the District Court Rules.

35. Pursuant to Rule 9(f) of the District Court Rules, Bethel Heights appeals the decision of the Springdale City Council.

Count III - Appeal Pursuant to Ark. Code Ann. § 14-40-2004

36. Bethel Heights incorporates by reference all preceding paragraphs as if set forth herein word for word.

37. Upon information and belief, the Ordinance was signed by Springdale's Mayor on March 13, 2015.

38. The Ordinance is not finally adopted until such time as the yays and nays are called, recorded, and ratified.

39. The time for appealing the Ordinance pursuant to Arkansas Code Annotated § 14-40-2004 has not yet run.

40. Bethel Heights thereby, in the alternative to the above, appeals the Springdale City Council's Ordinance.

Count IV - Breach of Contract

41. Bethel Heights incorporates by reference all preceding paragraphs as if set forth herein word for word.

42. Bethel Heights contracted with the Trust and Kendrick to provide additional sewer services for the Property.

43. The Trust and Kendrick promised to make the Property available to Bethel Heights as evidenced by the Request for Services.

44. The contract was valid and binding among the parties.

45. The Trust and Kendrick breached the contract by failing to provide reasonably requested information to Bethel Heights and by having Springdale annex the Property without notice to Bethel Heights.

46. An adequate remedy at law does not exist, and Bethel Heights requests an order from the Court requiring specific performance of the contract by the Trust and Kendrick.

47. Alternatively, Bethel Heights has been damaged by the breach of the contract, as Springdale has wrongfully annexed the Property, leading to loss of tax revenue to Bethel Heights.

WHEREFORE, premises considered, the City of Bethel Heights respectfully prays for an Order of this Court finding Springdale City Ordinance No. 4892 void *ab initio*, for an Order finding that there was substantial non-compliance with Act 779 of 1999, for judgment against the Gregory A. Kendrick Revocable Living Trust Dated October 5, 2012 and Shelly Kendrick for breach of contract and order specific performance of said contract, that the Court hear the appeal of the purported adoption of Ordinance No. 4898 of the City of Springdale, for the City of Bethel Heights' attorneys fees, and for any such other relief as the City of Bethel Heights may show itself entitled.

Respectfully submitted,



Robert K. Rhoads, ABA #80121

M. Scott Hall, ABA #07067

**HALL, ESTILL, HARDWICK, GABLE,
GOLDEN & NELSON, P.C.**

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**ATTORNEYS FOR PLAINTIFF,
CITY OF BETHEL HEIGHTS**

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ATTORNEYS AT LAW

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*ALSO LICENSED
IN MISSOURI

December 17, 2014

CERTIFIED MAIL ITEM NO. 7012 3050 0001 8272 8631

Mayor Jeff Hutcheson
Bethel Heights
City Hall
530 Sunrise Dr.
Bethel Heights, AR 72764



Re: Detachment of Lands Under Act 779 as revised

Dear Mayor Hutcheson:

This firm represents Gregory A. Kendrick, Trustee of the Gregory A. Kendrick Revocable Living Trust dated October 5th, 2012, and Shelly Kendrick. As you are no doubt aware, my clients are attempting to detach from City of Bethel Heights and be annexed into the City of Springdale. Thus far their efforts have been focused on the "friendly" process whereby this happens with the mutual agreement of the two cities. The purpose of this letter is to provide you with the formal statement and request for services pursuant to Act 779 of the 1999 legislative session, as revised and codified as A.C.A. 14-40-2001, et seq., in the event that the "friendly" process is not successful.

My clients own approximately three tracts of land in Bethel Heights as follows:

1. 69.68 acres at the NW corner of Old Wire road (Hwy, 265) and Kendrick Avenue..
2. 16.49 acres at the SE corner of Kendrick Avenue and N. Jefferson St.
3. 1 acre at 1161 Kendrick Avenue.

Complete legal descriptions of the subject properties are enclosed herewith as Exhibits 1, 2, and 3. These properties are, collectively, a single area within the boundaries of Bethel Heights which is also contiguous with the City of Springdale. An aerial photo of the subject area is enclosed. The subject property is outlined in green and the boundary with the City of Springdale is shown in orange.

The specific service the landowners are seeking to have provided by the City of Bethel Heights is municipal sewer service sufficient to provide not less than an eight (8) inch service main sufficient for industrial use to the property. The City of Bethel Heights is not presently providing this service necessary in order to maximize the use and value of the subject property as provided by the above Arkansas code section. This service is presently available to the property from the City of Springdale.

Pursuant to Act 779, as revised, the City of Bethel Heights is hereby placed on notice and requested to make a commitment, in writing, within 30 days, that the City of Bethel Heights will take substantial steps within 180 calendar days after receipt of this statement toward making the requested service reasonably available to the subject property. My clients will make the subject property

Mayor of Bethel Heights

December 17, 2014

page 2

reasonably available to the City of Bethel Heights for purposes of providing the requested services.

In the interests of time, and since the step sewer system operated by the City of Bethel Heights has no ability to provide the requested eight (8) inch service main, if the City of Bethel Heights is unable or unwilling to make the written commitment required by Act 779 within the required 30 days, my clients would appreciate it if you would simply so notify them in writing, through this office, of that fact. If the City of Bethel Heights is unable to make the written commitment required it is the expectation that detachment from Bethel Heights and annexation to Springdale as provided by the Act will be pursued.

As required under the revisions of Act 779 adopted in the 2001 legislative session a copy of this letter will be placed of record with the Benton County Circuit Clerk.

Sincerely,

THE WATKINS LAW OFFICE, PLLC



Bill Watkins

WPW:plm

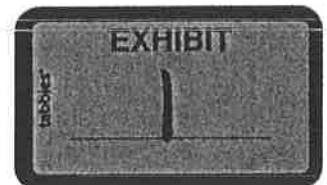
pc: client

Bethel Heights City Clerk

[TRACT ONE: 1270 Kendrick, Bethel Heights, Arkansas 72764:]

THAT PART OF THE S/2 OF THE NW/4 OF SECTION, 19, TOWNSHIP 18 NORTH, RANGE 29 WEST, BENTON COUNTY, ARKANSAS, LYING WEST OF OLD WIRE ROAD AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE SW CORNER OF SAID S/2 OF THE NW/4, THENCE N 2 DEGREES 20'15" E 1312.08 FEET TO THE NW CORNER OF SAID S/2 OF THE NW/4, THENCE ALONG THE NORTH LINE OF SAID S/2 OF THE NW/4 S 87 DEGREES 30' 36" E 2530.25 FEET TO APPROXIMATE CENTER OF OLD WIRE ROAD, THENCE ALONG SAID ROAD AS FOLLOWS: S 6 DEGREES 05'54" W 253.74 FEET. S 12 DEGREES 01'50" W 473.67 FEET, AND S 12 DEGREES 56'40" W 608.49 FEET TO THE SOUTH LINE OF SAID S/2 OF THE NW/4 OF THE NW/4, THENCE ALONG SAID LINE N 87 DEGREES 20'44" W 2321.88 FEET TO THE POINT OF BEGINNING, CONTAINING 73.68 ACRES, MORE OR LESS AND SUBJECT TO THE RIGHT-OF-WAY OF OLD WIRE ROAD ALONG THE EAST SIDE OF THE PROPERTY AND SUBJECT TO THE RIGHT- OF-WAY OF KENDRICK AVE. ALONG THE SOUTH SIDE OF THE PROPERTY.

LESS AND EXCEPT: PART OF THE S ½ OF THE NW ¼ OF SECTION 19, TOWNSHIP 18 NORTH, RANGE 29 WEST, BENTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT A FOUND IRON PIN FOR THE SW CORNER OF SAID S ½ OF THE NW ¼, THENCE N 02°20'15" E 32.29 FEET TO THE POINT OF BEGINNING, THENCE ALONG THE WEST LINE OF SAID S ½ OF THE NW ¼, N 02°20'15" E 680.63 FEET, THENCE LEAVING SAID WEST LINE S 87°20'44" E 256.00 FEET, THENCE S 02°20'15" W 680.63 FEET, THENCE N 87°20'44" W 256.00 FEET TO THE POINT OF BEGINNING, CONTAINING 4.00 ACRES, MORE OR LESS AND SUBJECT TO THE RIGHT OF WAY OF KENDRICK AVENUE ON THE SOUTH SIDE OF THE PROPERTY AND ANY OTHER EASEMENTS OF RECORD OR FACT.
(Commonly known as 1270 Kendrick, Bethel Heights, Arkansas 72764)



[Tract two: 1255 Kendrick, Bethel Heights, Arkansas 72764]

THE NORTHWEST QUARTER (NW ¼) OF THE SOUTHWEST QUARTER (SW ¼) OF SECTION NINETEEN (19) TOWNSHIP EIGHTEEN (18) NORTH, RANGE TWENTY-NINE (29) WEST.

LESS AND EXCEPT: (WD 95-18075)

A TRACT OF LAND DESCRIBED AS BEGINNING AT A POINT 525 FEET WEST OF THE NORTHEAST CORNER OF THE NORTHWEST QUARTER (NW ¼) OF THE SOUTHWEST QUARTER (SW ¼) OF SECTION NINETEEN (19) TOWNSHIP EIGHTEEN (18) NORTH, RANGE TWENTY-NINE (29) WEST AND RUNNING THENCE SOUTH 250 FEET; THENCE WEST 175 FEET; THENCE NORTH 250 FEET; THENCE EAST 175 FEET TO THE POINT OF BEGINNING.

ALSO LESS AND EXCEPT: (WD 2002-102428)

PART OF THE NW ¼ OF THE SW ¼ OF SECTION 19, TOWNSHIP 18 NORTH, RANGE 29 WEST, BENTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE SW CORNER OF SAID NW ¼ OF THE SW ¼, THENCE N 2 DEGREES 20' 15" E 348.04 FEET ALONG THE WEST LINE OF SAID NW ¼ OF THE SW ¼, THENCE S 88 DEGREES 11' 24" E 1252.77 FEET, THENCE S 2 DEGREES 40' 04" W 348.07 FEET ALONG THE EAST LINE OF SAID NW ¼ OF THE SW ¼ TO THE SE CORNER OF SAID NW ¼ OF THE SW ¼, THENCE N 88 DEGREES 11' 23" W 1250.77 FEET TO THE POINT OF BEGINNING, CONTAINING 10.00 ACRES, MORE OR LESS, AND SUBJECT TO THE RIGHT-OF-WAY OF N. JEFFERSON STREET ALONG THE WEST SIDE OF THE PROPERTY AND SUBJECT TO ANY OTHER EASEMENTS OF RECORD.

ALSO LESS AND EXCEPT: (WD 2003-12250)

PART OF THE NW ¼ OF THE SW ¼ OF SECTION 19, TOWNSHIP 18 NORTH, RANGE 29 WEST, BENTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SW CORNER OF SAID NW ¼ OF THE SW ¼, THENCE NORTH 02 DEGREES 20 MINUTES 15 SECONDS EAST 348.04 FEET ALONG THE WEST LINE OF SAID NW ¼ OF THE SW ¼ TO THE POINT OF BEGINNING, THENCE SOUTH 88 DEGREES 11 MINUTES 24 SECONDS EAST 1252.77 FEET, THENCE NORTH 02 DEGREES 40 MINUTES 04 SECONDS EAST 347.36 FEET ALONG THE EAST LINE OF SAID NW ¼ OF THE SW ¼, THENCE NORTH 88 DEGREES 11 MINUTES 23 SECONDS WEST 1254.78 FEET, THENCE SOUTH 02 DEGREES 20 MINUTES 15 SECONDS WEST 347.34 FEET TO THE POINT OF BEGINNING, SUBJECT TO THE RIGHT OF WAY OF NORTH JEFFERSON STREET ALONG THE WEST SIDE OF THE PROPERTY AND SUBJECT TO ANY OTHER EASEMENTS OF RECORD.

(Commonly known as 1255 Kendrick, Bethel Heights, Arkansas 72764)



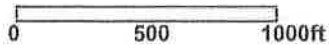
A tract of land described as beginning at a point 525 feet west of the northeast corner of the Northwest Quarter (NW1/4) of the Southwest Quarter (SW1/4) of Section Nineteen (19), Township Eighteen (18) North, Range Twenty-nine (29) West and running thence south 250 feet; thence west 175 feet; thence north 250 feet; thence east 175 feet to the point of beginning.

Subject to a permissive easement for gas line purposes, which easement runs across the north side of the subject property. Said permissive easement in favor of Gregory Allen Kendrick and Kimberly Denise Kendrick, husband and wife, only.

Subject to easements, right-of-ways, and restrictive covenants of record, if any.



Benton County GIS: Parcel Map



Law Office of
JOE A. SUMMERFORD
P.O. Box 3505
Fayetteville, Arkansas 72702

JOE A. SUMMERFORD**

Phone (479) 263-0023
Summerfordlaw@cox.net

January 13, 2015

Certified Mail # 7011 2970 0002 8386 8938

Mr. Bill Watkins
The Watkins Law Office, PLLC
Watkins, Boyer, Gray & Noblin, PLLC
1106 West Poplar Street
Rogers, AR 72756

RE: Detachment Request by Kendrick Trust

Dear Mr. Watkins:

I have been asked by the Mayor and City Council of Bethel Heights to respond to your letter of December 16, 2014 wherein you requested, on behalf of the Gregory A. Kendrick Revocable Trust, additional sewer services for certain described property in the City of Bethel Heights.

I have been authorized to inform you that the City of Bethel Heights does hereby commit to provide services adequate to service the needs of your client. At the present time there is adjoining the property a forced main wastewater line that our engineers have determined will actually service more volume than the capacity of an eight inch (8") gravity flow service which your clients claim to need. The City will provide an eight inch connection to that line at the time needed by your client or will stub out such a connection within the 180 day time period within which substantial steps are required to be made by Act 779.

As the line is already located adjacent to the property and the line will handle the flow of an eight inch line, the service requested by your client is already available.

In your letter you referenced "industrial use" of the property. At the present time the majority of the property appears to be zoned agricultural and the Planning Commission does not report that a rezoning request has been filed for the property. Neither is there any planned use or development plan for the property before the commission. The City respectfully requests that additional information be provided to the City in order that zoning and use issues may be considered and a determination made as to whether any proposed use of the property may even be acceptable under the zoning and development requirements of the City. Such a basic

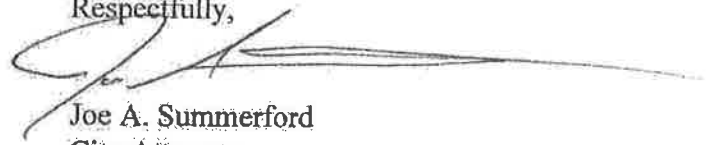
†L.L.M. Agricultural Law *Also Licensed in Mississippi



determination in the normal and customary course of development is vital to determining the services necessary not only with wastewater but also with water, electric, and gas and such information will surely be available in determining the required capacity and availability of those services.

The City of Bethel Heights looks forward to working with your client on this matter and intends to proceed in the appropriate and timely manner within the framework of property development. The assistance of your client in providing the customary information requested in consideration of such development will aid in that process.

Respectfully,

A handwritten signature in black ink, appearing to read "Joe A. Summerford", with a long horizontal flourish extending to the right.

Joe A. Summerford
City Attorney
Bethel Heights, Arkansas

cc: Mayor Cynthia Black

SENDER: COMPLETE THIS SECTION

COMPLETE THIS SECTION ON DELIVERY

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

A. Signature: Agent
 Addressee
x *[Handwritten Signature]*
B. Received by (Printed Name) *Vicky Edwards*
C. Date of Delivery *1/15/15*
D. Is delivery address different from item 1? Yes
If YES, enter delivery address below: No

1. Article Addressed to:

*Mr. Bill Watkins
The Watkins Law Office, PLLC
Watkins, Boyer, Gray & Nobley, PLLC
106 West Poplar Street
Sagers, AR 72756*

3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

2. Article Number

(Transfer from service label)

7011 2970 0002 8386 8938

ORDINANCE NO. 4892

AN ORDINANCE ANNEXING CERTAIN REAL PROPERTY TO THE CITY OF SPRINGDALE, ARKANSAS, PURSUANT TO ARK. CODE ANN. §14-40-2002 (ACT 779 of 1999), AND MAKING A COMMITMENT TO PROVIDE SEWER SERVICES TO SAID PROPERTY AS REQUIRED BY ARK. CODE ANN. §14-40-2002 (ACT 779 of 1999).

Brenda DeShields-Circuit Clerk
Benton County, AR
Book/Pg: 2015/11790
Term/Cashier: CASH2/Laura L. Tye
03/16/2015 10:29:07AM
Tran#: 323003
Total Fees: \$20.00

Book 2015 Page 11790
Recorded in the Above
DEED Book & Page
03/16/2015

WHEREAS, Greg Kendrick and Kim Kendrick ("the Kendricks"), are the owners of the following real property currently located in Bethel Heights, Benton County, Arkansas, and which is contiguous to and adjacent to the City of Springdale, Arkansas ("the Property")(legal descriptions and map attached hereto):

- Tract 1: 1161 Kendrick Avenue, Benton County Parcel No. 20-00017-001, containing one (1) acre more or less;
- Tract 2: 69.68 acres, more or less, located at the northwest corner of Old Wire Road (State Highway 265) and Kendrick Avenue, Benton County Parcel No. 20-00016-000, containing 69.68 acres more or less; and
- Tract 3: 16.49 acres, more or less, located at the southeast corner of Kendrick Avenue and N. Jefferson St., Benton County Parcel No. 20-00017-000.

WHEREAS, the Kendricks wish to avail themselves of the detachment and annexation procedure contained in Ark. Code Ann. §14-40-2002, as they are seeking additional municipal services, namely sewer services, to the Property;

WHEREAS, pursuant to Ark. Code Ann. §14-40-2002, the Kendricks made demand upon the City of Bethel Heights to make a commitment to provide sewer service to the Property sufficient to serve industrial uses;

WHEREAS, the City of Bethel Heights has expressed in writing that it can or will make such a commitment as required by Ark. Code Ann. §14-40-2002;

WHEREAS, the present condition and status of the Bethel Heights "step system" is such that its sanitary sewer system is unable to serve present capacity and cannot be expected to provide the additional capacity necessary to provide sanitary sewer service adequate for an industrial use on the Property within the time provided by Ark. Code Ann. §14-40-2002, thereby rendering Bethel Heights' written commitment to provide sewer services untenable;



WHEREAS, the City of Springdale, as annexing municipality pursuant to Ark. Code Ann. §14-40-2002, by the adoption of this Ordinance, does hereby commit to take substantial steps within 180 calendar days after the adoption of this Ordinance toward making the requested services available to the Property, and within each 30 day period thereafter, to continue to take steps demonstrating a consistent commitment to provide the requested sanitary sewer services to the Property within a reasonable time; and,

WHEREAS, upon the City of Springdale making the commitment to provide the requested sanitary sewer services to the Property, the Kendricks now seek approval of the request for detachment from Bethel Heights and annexation into the City of Springdale, Arkansas, pursuant to Ark. Code Ann. §14-40-2002.

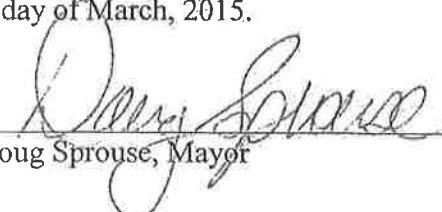
NOW, THEREFORE, BE IT ORDAINED, BY THE CITY COUNCIL FOR THE CITY OF SPRINGDALE, ARKANSAS:

SECTION 1: The City of Springdale, Arkansas hereby makes a commitment to provide sewer services to the Property, and to take substantial steps within one hundred eighty (180) days after the passage of this ordinance to make the services available and, within each thirty-day period thereafter, continue taking steps demonstrating a consistent commitment to make the additional services available within a reasonable time, as determined by the kind of services requested.

SECTION 2: Given the commitment made by the City of Springdale, Arkansas, to provide the requested services, the Property is therefore accepted for annexation into the City of Springdale, Arkansas, pursuant to Ark. Code Ann. §14-40-2002, and the Property shall hereafter be a part of the City of Springdale.


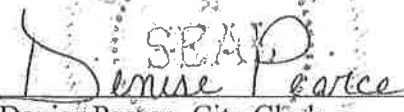
SECTION 3: The Property is hereby assigned to Ward 4 of the City of Springdale, Arkansas.

PASSED AND APPROVED this 10th day of March, 2015.



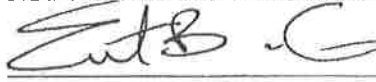
Doug Sprouse, Mayor

ATTEST:

Denise Pearce, City Clerk

APPROVED AS TO FORM:



Ernest B. Cate, City Attorney

Book 2015 Page 11791
Recorded in the Above
DEED Book & Page
03/16/2015

Benton County, AR
I certify this instrument was filed on
03/16/2015 10:29:07AM
and recorded in DEED Book
2015 at pages 11790 - 11791
Brenda DeShields-Circuit Clerk