

**MINUTES OF THE
SPECIAL MEETING OF THE
WASHINGTON COUNTY QUORUM COURT**

Tuesday, May 28, 2019
6:00 p.m.
Washington County Quorum Court Room

2019 JUN 21 AM 11:35
BECKY LEVALL EN
CO. & PROBATE CLERK
WASHINGTON CO. AR

FILED

JP Yanez called the meeting to order.

A motion to elect JP Yanez to preside over the meeting in Judge Joseph Wood's absence was made by JP S Madison and seconded by JP Leming. A voice vote was called and all members present unanimously voted to approve the motion.

JP Cunningham led the prayer and pledge.

Members present were JP Susan Cunningham, JP Harvey Bowman, JP Judith Yanez, JP Patrick Deakins, JP Lisa Ecke, JP Eva Madison, JP Andrea Jenkins, JP Suki Highers, JP Sue Madison, JP Willie Leming, JP Ann Harbison, and JP Butch Pond. JP Lance Johnson, JP Sam Duncan, and JP Shawndra Washington were absent.

A motion to adopt the agenda was made by JP S Madison and seconded by JP Harbison. A voice vote was called and all members present unanimously voted to adopt the agenda.

A motion to suspend the rules and read all ordinances by title only was made by JP S Madison and seconded by JP Leming. A voice vote was called and all members present unanimously voted to approve the motion.

During citizen's comment, Ken Dunk shared his concerns about the proposed contract. A motion to suspend the rules and allow Mr. Dunk to continue to speak was made by JP Harbison and seconded by JP Pond. A voice vote was called and all members present unanimously voted to approve the motion. Mr. Dunk continued to speak to the Court. Jason Steele shared his concerns about the publication of the RFP. Alex Ray, Development Director for Johnson Controls Inc. spoke to the Court about the proposed contract. A motion to suspend the rules and allow Mr. Ray to continue to speak was made by JP Harbison and seconded by JP Ecke. A voice vote was called and all members present unanimously voted to approve the motion. Mr. Ray continued to speak and answered questions from the Court.

JP Deakins introduced agenda item 5.1. County Attorney Brian Lester read the ordinance by title only, "AN ORDINANCE PROVIDING FOR THE EXECUTION AND DELIVERY OF AN EQUIPMENT LEASE PURCHASE AGREEMENT BETWEEN WASHINGTON COUNTY, ARKANSAS, AND STERLING NATIONAL BANK; PROVIDING FOR THE PAYMENT OF LEASE PAYMENTS PURSUANT TO SUCH AGREEMENT; PROVIDING FOR THE EXECUTION AND DELIVERY OF AN ESCROW AGREEMENT AMONG WASHINGTON COUNTY, ARKANSAS, STERLING NATIONAL BANK, AS LESSOR, AND STERLING NATIONAL BANK, AS ESCROW AGENT; RATIFYING THE EXECUTION AND DELIVERY OF A PERFORMANCE CONTRACT DATED AS OF APRIL 23, 2019 BETWEEN WASHINGTON COUNTY ARKANSAS AND JOHNSON CONTROLS, INC.; PRESCRIBING OTHER MATTERS RELATING THERETO; AND DECLARING AN EMERGENCY". A motion to adopt the ordinance was made by JP Deakins and seconded by JP Jenkins. There were comments made by various members of the Court and County Attorney Brian Lester. A call for the question was made by JP Ecke and seconded by JP Jenkins. A voice vote was called and all members present unanimously voted to approve the call for the question. During public comment, Jennifer Steele spoke. A motion to suspend the rules and allow Ms. Steele to continue to speak was made by JP Pond and seconded by JP Harbison. A voice vote was called and all members present unanimously voted to approve the motion. Ms. Steele continued to speak to the Court. A roll call vote was called and the votes were tallied as follow:

JP Johnson: Absent
JP Cunningham: Yes
JP Bowman: No

JP Yanez: Yes
JP Deakins: Yes
JP Ecke: Yes
JP Duncan: Absent
JP Washington: Absent
JP E Madison: Yes
JP Jenkins: Yes
JP Highers: Yes
JP S Madison: Yes
JP Leming: No
JP Harbison: Yes
JP Pond: No

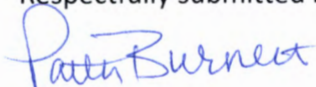
The motion failed. There were comments made by various members of the Court and County Attorney Brian Lester. A motion to reconsider the vote to adopt the ordinance was made by JP Bowman and seconded by JP S Madison. A voice vote was called and all members present unanimously voted to approve the motion. A motion to adopt the ordinance was made by JP Deakins and seconded by JP Highers. A roll call vote was called and the votes were tallied as follow:

JP Johnson: Absent
JP Cunningham: Yes
JP Bowman: Yes
JP Yanez: Yes
JP Deakins: Yes
JP Ecke: Yes
JP Duncan: Absent
JP Washington: Absent
JP E Madison: Yes
JP Jenkins: Yes
JP Highers: Yes
JP S Madison: Yes
JP Leming: No
JP Harbison: Yes
JP Pond: No
The motion was approved.

Ordinance 2019-41, AN ORDINANCE PROVIDING FOR THE EXECUTION AND DELIVERY OF AN EQUIPMENT LEASE PURCHASE AGREEMENT BETWEEN WASHINGTON COUNTY, ARKANSAS, AND STERLING NATIONAL BANK; PROVIDING FOR THE PAYMENT OF LEASE PAYMENTS PURSUANT TO SUCH AGREEMENT; PROVIDING FOR THE EXECUTION AND DELIVERY OF AN ESCROW AGREEMENT AMONG WASHINGTON COUNTY, ARKANSAS, STERLING NATIONAL BANK, AS LESSOR, AND STERLING NATIONAL BANK, AS ESCROW AGENT; RATIFYING THE EXECUTION AND DELIVERY OF A PERFORMANCE CONTRACT DATED AS OF APRIL 23, 2019 BETWEEN WASHINGTON COUNTY ARKANSAS AND JOHNSON CONTROLS, INC.; PRESCRIBING OTHER MATTERS RELATING THERETO; AND DECLARING AN EMERGENCY, was adopted.

A motion to adjourn the meeting was made by JP E Madison and seconded by JP Jenkins. The meeting was adjourned at 7:30 p.m.

Respectfully submitted by,



Patty Burnett
Quorum Court Coordinator

2019 MAY 29 AM 8:52
BECKY LEWALLEN
CO. & PROBATE CLERK
WASHINGTON CO. AR

FILED

ORDINANCE NO. 2019-41

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3
4 **BE IT ENACTED BY THE QUORUM**
5 **COURT OF THE COUNTY OF**
6 **WASHINGTON, STATE OF ARKANSAS,**
7 **AN emergency ORDINANCE TO BE**
8 **ENTITLED:**
9

10
11 **AN ORDINANCE PROVIDING FOR THE EXECUTION AND**
12 **DELIVERY OF AN EQUIPMENT LEASE PURCHASE**
13 **AGREEMENT BETWEEN WASHINGTON COUNTY,**
14 **ARKANSAS, AND STERLING NATIONAL BANK;**
15 **PROVIDING FOR THE PAYMENT OF LEASE PAYMENTS**
16 **PURSUANT TO SUCH AGREEMENT; PROVIDING FOR**
17 **THE EXECUTION AND DELIVERY OF AN ESCROW**
18 **AGREEMENT AMONG WASHINGTON COUNTY,**
19 **ARKANSAS, STERLING NATIONAL BANK, AS LESSOR,**
20 **AND STERLING NATIONAL BANK, AS ESCROW AGENT;**
21 **RATIFYING THE EXECUTION AND DELIVERY OF A**
22 **PERFORMANCE CONTRACT DATED AS OF APRIL 23,**
23 **2019 BETWEEN WASHINGTON COUNTY ARKANSAS**
24 **AND JOHNSON CONTROLS, INC.; PRESCRIBING OTHER**
25 **MATTERS RELATING THERETO; AND DECLARING AN**
26 **EMERGENCY.**
27

28 **WHEREAS,** Washington County, Arkansas (the "County")
29 has acknowledged the need for acquiring and installing certain energy equipment and
30 other related energy facilities (the "Facilities") in various facilities owned by the County for
31 the use and benefit of the citizens of the County; and
32

33 **WHEREAS,** Washington County, Arkansas (the "County")
34 has acknowledged the need for acquiring and installing certain energy equipment and
35 other related energy facilities (the "Facilities") in various facilities owned by the County for
36 the use and benefit of the citizens of the County; and
37

38 **WHEREAS,** Washington County, Arkansas (the "County")
39 has acknowledged the need for acquiring and installing certain energy equipment and
40 other related energy facilities (the "Facilities") in various facilities owned by the County for
41 the use and benefit of the citizens of the County; and

42
43 **WHEREAS**, Washington County, Arkansas (the "County")
44 has acknowledged the need for acquiring and installing certain energy equipment and
45 other related energy facilities (the "Facilities") in various facilities owned by the County for
46 the use and benefit of the citizens of the County; and
47

48 **WHEREAS**, in connection with the acquisition and installation
49 of the Facilities, the County intends to execute and deliver an Escrow Agreement among
50 the County, the Lessor, and Sterling National Bank, as Escrow Agent, substantially in the
51 form presented to and before this meeting of the Quorum Court (the "Escrow
52 Agreement");
53

54 **NOW, THEREFORE, BE IT ORDAINED BY THE QUORUM**
55 **COURT OF WASHINGTON COUNTY, ARKANSAS:**
56

57 **ARTICLE 1.** Under the authority of the Constitution and laws
58 of the State of Arkansas, including particularly Amendment 89 to the Constitution of the
59 State of Arkansas and Arkansas Code Annotated Title 14, Chapter 164, Subchapter 8, as
60 amended, the obligations to be evidenced by the Lease Agreement (the "Obligations") are
61 hereby approved and authorized in the total principal amount of not to exceed
62 \$8,005,529.00, for a term not exceeding twenty (20) years from the date of execution and
63 delivery thereof, and bearing interest at a rate not to exceed 3.17%. The Obligations are
64 not and shall not be general obligations of the County, but shall be special obligations
65 payable solely from revenues in the form of savings received by the County pursuant to the
66 Performance Contract. Notwithstanding the foregoing, the County is authorized, but not
67 required, to make payments under the Lease Agreement from any lawful revenues of the
68 County.
69

70 **ARTICLE 2.** The County Judge and County Clerk, for and on
71 behalf of the County, are authorized and directed to do any and all things necessary to
72 effect the preparation, execution and delivery of the Lease Agreement and the performance
73 of all obligations of the County under the Lease Agreement and the Escrow Agreement.
74 The Lease Agreement and the Escrow Agreement are hereby approved in substantially the
75 forms submitted to this meeting, with such changes, omissions, insertions and revisions as
76 the County Judge, with the advice of counsel, shall deem advisable, the execution and
77 delivery by the County Judge and County Clerk of such Lease Agreement and Escrow
78 Agreement to constitute conclusive evidence of the County's acceptance and approval
79 thereof.
80

81 **ARTICLE 3.** The County Judge and County Clerk, for and on
82 behalf of the County, are authorized and directed to do any and all things necessary to
83 effect the preparation, execution and delivery of the Lease Agreement and the Escrow
84 Agreement, the performance of all obligations of the County under the Lease Agreement
85 and the Escrow Agreement; the use of a portion of the proceeds from the Obligations to
86 commence acquisition and installation of the Facilities and the performance of all acts

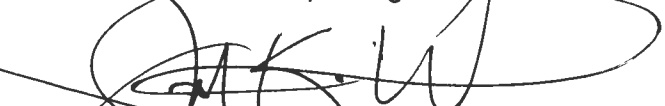
87 enumerated in this Ordinance and all other acts of whatever nature necessary to effect
88 and carry out the authority conferred by this Ordinance. The County Judge and County
89 Clerk are further authorized and directed, for and on behalf of the County, to execute all
90 papers, documents, certificates and other instruments that may be required for the
91 carrying out of such authority or to evidence the exercise thereof.

92
93 **ARTICLE 4.** The prior authorization, execution and delivery
94 of the Performance Contract by the County is hereby ratified, approved and confirmed.

95
96 **ARTICLE 5.** The Quorum Court of the County hereby
97 authorizes and directs the County Judge and County Clerk, and the officers and
98 employees of the County, to carry out or cause to be carried out, and to perform such
99 obligations of the County and to execute such other certificates or documents, among
100 other things, to evidence authority as authorized herein and to take such other actions as
101 they, in consultation with counsel, shall consider necessary or advisable in connection
102 with this Ordinance, the Lease Agreement, and the Escrow Agreement.

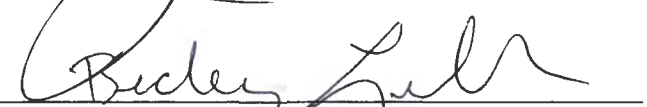
103
104 **ARTICLE 6.** If any one or more provisions of this Ordinance
105 shall be determined by a court of competent jurisdiction to be contrary to law, any such
106 provision shall be deemed separable from the remaining provisions hereof and the
107 invalidity thereof shall in no way affect the validity of the other provisions of this
108 Ordinance.

109
110 **ARTICLE 7. Emergency Clause.** It is hereby found and
111 declared that an immediate need exists for the acquisition, installation, and financing of
112 the Facilities in order to obtain the most cost effective energy for the County. It is,
113 therefore, declared that an emergency exists. This Ordinance, being necessary for the
114 immediate preservation of the public peace, health, and safety, shall take effect and be in
115 force from and after its passage.

116
117 
118 _____
119 JOSEPH K. WOOD, County Judge

05-29-2019

DATE

120
121 
122 _____
123 BECKY LEWALLEN, County Clerk

124
125 Introduced by: **JP Sam Duncan**
126 Date of Passage: **May 28, 2019**
127 Members Voting For: **Cunningham, Bowman, Yanez, Deakins, Ecke,**
128 **E. Madison, Jenkins, Highers, S. Madison, Harbison**
129 Members Voting Against: **Leming, Pond**
130 Members Abstaining:
131 Members Absent: **Johnson, Duncan, Washington**