

City of Fayetteville, Arkansas

113 West Mountain Street

Fayetteville, AR 72701

(479) 575-8323



City Council Final Agenda

Tuesday, December 17, 2024

5:30 PM

City Hall Room 219

City Council Members

Council Member Robert B. Stafford Ward 1

Council Member Dr. D'Andre Jones Ward 1

Council Member Sarah Moore Ward 2

Council Member Mike Wiederkehr Ward 2

Council Member Scott Berna Ward 3

Council Member Sarah Bunch Ward 3

Council Member Teresa Turk Ward 4

Council Member Holly Hertzberg Ward 4

Mayor Lioneld Jordan

City Attorney Kit Williams

City Clerk Treasurer Kara Paxton

MEETING INFORMATION:

1. **WEBINAR ID: 874 2292 3249**
[PUBLIC REGISTRATION LINK: HTTPS://US06WEB.ZOOM.US/WEBINAR/REGISTER/WN_NHAT2K2NRKS1PRRTVCSZNW](https://us06web.zoom.us/join/9101234567890)
AGENDAITEMCOMMENT@FAYETTEVILLE-AR.GOV

CALL TO ORDER**ROLL CALL****PLEDGE OF ALLEGIANCE****MAYOR' S ANNOUNCEMENTS, PROCLAMATIONS AND RECOGNITIONS**

1. **FAYETTEVILLE HIGH SCHOOL DANCE TEAM RECOGNITION -
PRESENTED BY MAYOR LIONELD JORDAN**

CITY COUNCIL MEETING PRESENTATIONS, REPORTS AND DISCUSSION ITEMS

1. **MAYOR JORDAN SERVICE AWARD - PRESENTED BY VICE MAYOR
BUNCH**
2. **NOMINATING COMMITTEE REPORT - PRESENTED BY COMMITTEE CHAIR**

PROPOSED AGENDA ADDITIONS

1. **AN ORDINANCE TO REPEAL ORDINANCE 6800:**
ORDINANCE 6800 WAS PASSED ON OCTOBER 15, 2024, BUT WAS DETERMINED TO NOT TAKE EFFECT UNTIL 90 DAYS FROM PASSAGE AND APPROVAL. THIS RESTRICTION ON HOW MUCH LANDLORDS COULD CHARGE PROSPECTIVE TENANTS FOR RENTAL APPLICATION REVIEWS AND FOR POSSIBLE BACKGROUND CHECKS MAY VIOLATE A.C.A. § 14-43-608 REGULATION OF PRICES. (2024-01076)

A. CONSENT**A.1. APPROVAL OF THE NOVEMBER 19, 2024 CITY COUNCIL MEETING MINUTES:****A.2. SEVEN HILLS HOMELESS CENTER (ARPA REALLOCATION #2):**

A RESOLUTION TO COMMIT ARPA FUNDS IN THE AMOUNT OF \$23,719.80.00 TO THE SEVEN HILLS HOMELESS CENTER, AND TO

APPROVE A BUDGET ADJUSTMENT
(2024-0935)

A.3. AREA AGENCY ON AGING OF NORTHWEST ARKANSAS (AMENDMENT #2):

A RESOLUTION TO APPROVE AMENDMENT NO. 2 TO THE CONTRACT WITH THE AREA AGENCY ON AGING OF NORTHWEST ARKANSAS IN THE AMOUNT OF \$160,759.00 TO PROVIDE PUBLIC RECREATION SERVICES FOR SENIOR RESIDENTS OF FAYETTEVILLE, CONTINGENT ON APPROVAL OF THE 2025 ANNUAL CITY BUDGET (2024-0795)

A.4. PURCHASED WATER ACCOUNT (BUDGET ADJUSTMENT):

A RESOLUTION TO APPROVE A BUDGET ADJUSTMENT IN THE AMOUNT OF \$1,326,000.00 FOR THE PURCHASED WATER ACCOUNT DUE TO INCREASED WATER USAGE (2024-0771)

A.5. I3 VERTICALS, LLC. (SERVICE AGREEMENT):

A RESOLUTION TO WAIVE COMPETITIVE BIDDING AND APPROVE AN AGREEMENT WITH I3 VERTICALS LLC TO PROVIDE CITATION PAYMENT PROCESSING FOR THE FAYETTEVILLE DISTRICT COURT (2024-0899)

A.6. PORTER WAREHOUSE STABILIZATION (CHANGE ORDER #1):

A RESOLUTION TO APPROVE CHANGE ORDER #1 TO THE CONTRACT WITH JBZ INC. D/B/A ELLINGSON CONTRACTING IN THE AMOUNT OF \$178,526.13 FOR THE PORTER WAREHOUSE STABILIZATION PROJECT (2024-0901)

A.7. CENTRAL UNITED METHODIST CHURCH (SHARED PARKING LEASE AGREEMENT):

A RESOLUTION TO AUTHORIZE MAYOR JORDAN TO SIGN A LIMITED LICENSE AGREEMENT WITH CENTRAL UNITED METHODIST CHURCH FOR OPERATION OF THE CHURCH PARKING DECK AS A REVENUE-PRODUCING PARKING FACILITY (2024-0902)

A.8. ANIMAL SERVICES - DONATION REVENUE (BUDGET ADJUSTMENT):

A RESOLUTION TO APPROVE A BUDGET ADJUSTMENT IN THE AMOUNT OF \$41,174.00 REPRESENTING DONATION REVENUE TO THE ANIMAL SERVICES DIVISION (2024-0903)

A.9. ECO-VISTA, LLC. (SERVICE CONTRACT):

A RESOLUTION TO APPROVE AN AGREEMENT WITH ECO-VISTA, LLC FOR THE HAULING AND DISPOSAL OF SOLID WASTE IN THE CITY OF FAYETTEVILLE FOR A PERIOD OF 3 YEARS WITH AUTOMATIC RENEWALS

FOR FOUR ADDITIONAL 3 YEAR TERMS (2024-0934)

A.10. NATURAL STATE STREAMS (SERVICE CONTRACT):

A RESOLUTION TO APPROVE A CONTRACT WITH NATURAL STATE STREAMS, LLC IN THE AMOUNT OF \$169,645.95 FOR THE RESTORATION OF NIOKASKA CREEK DOWNSTREAM OF NORTH AZALEA TERRACE, TO APPROVE A PROJECT CONTINGENCY IN THE AMOUNT OF \$20,000.00, AND TO APPROVE A BUDGET ADJUSTMENT (2024-0761)

A.11. BENCHMARK CONSTRUCTION OF NWA, INC. (CONSTRUCTION CONTRACT):

A RESOLUTION TO APPROVE A CONTRACT WITH BENCHMARK CONSTRUCTION COMPANY OF NWA, INC. IN THE AMOUNT OF \$8,693,634.49 FOR THE COLLEGE AVENUE IMPROVEMENTS PROJECT, TO APPROVE A PROJECT CONTINGENCY IN THE AMOUNT OF \$870,000.00, AND TO APPROVE A BUDGET ADJUSTMENT – 2022 STREET IMPROVEMENT BOND PROJECT (2024-0904)

A.12. POLICE DEPARTMENT DONATIONS (BUDGET ADJUSTMENT):

A RESOLUTION TO APPROVE A BUDGET ADJUSTMENT IN THE AMOUNT OF \$148.00 RECOGNIZING DONATION REVENUE TO THE FAYETTEVILLE POLICE DEPARTMENT (2024-0882)

A.13. STATE FORFEITURES (BUDGET ADJUSTMENT):

A RESOLUTION TO APPROVE A BUDGET ADJUSTMENT IN THE AMOUNT OF \$28,463.00 RECOGNIZING REVENUE ASSOCIATED WITH FEDERAL AND STATE LAW ENFORCEMENT FORFEITURES (2024-0881)

B. UNFINISHED BUSINESS

B.1. STORMWATER MANAGEMENT AND WATER QUALITY FUNDING (ADOPTION):

AN ORDINANCE TO ENACT CHAPTER 52: STORMWATER MANAGEMENT UTILITY FEE INTO THE FAYETTEVILLE CODE OF ORDINANCES (2024-0687)

AT THE DECEMBER 4, 2024 CITY COUNCIL MEETING THIS ORDINANCE WAS LEFT ON THE FIRST READING.

C. NEW BUSINESS

C.1. NATIONAL DAY OF RACIAL HEALING (RECOGNITION - JANUARY 21, 2025):

A RESOLUTION FOR THE CITY OF FAYETTEVILLE TO RECOGNIZE THE

NATIONAL DAY OF RACIAL HEALING ON JANUARY 21, 2025 (2024-0913)

C.2. UPPER RAMBLE PARK HOURS (ORDINANCE):

AN ORDINANCE TO AMEND § 97.015 OPERATING HOURS IN CHAPTER 97, ARTICLE II PARK OPERATIONS; ADMINISTRATION AND ENFORCEMENT OF THE CODE OF FAYETTEVILLE TO PROVIDE FOR EXTENDED HOURS IN THE UPPER RAMBLE (2024-0905)

C.3. REZONING-2024-0055: (WEST OF 3296 E. HUNTSVILLE RD/PAIR, 528):

AN ORDINANCE TO REZONE THE PROPERTY DESCRIBED IN REZONING PETITION RZN 2024-55 FOR APPROXIMATELY 0.60 ACRES LOCATED WEST OF 3296 EAST HUNTSVILLE ROAD IN WARD 1 FROM R-A, RESIDENTIAL-AGRICULTURAL TO RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE (2024-0908)

C.4. AUTHORIZE PAYMENT OF SURVIVAL SPOUSAL BENEFITS (ORDINANCE):

AN ORDINANCE TO AUTHORIZE PAYMENT OF SURVIVAL SPOUSAL BENEFITS OF 50% OF MAYOR JORDAN'S STATUTORY RETIREMENT BENEFITS TO MRS. DIANA JORDAN AND TO GRANT AN ANNUAL COST-OF-LIVING BENEFIT INCREASE UP TO 3% (2024-0963)

D. CITY COUNCIL AGENDA SESSION PRESENTATIONS

E. CITY COUNCIL TOUR

F. ANNOUNCEMENTS

G. ADJOURNMENT

NOTICE TO MEMBERS OF THE AUDIENCE

All interested persons may appear and address the City Council on Unfinished Business, New Business, and Public Hearings at City Council meetings. If you wish to address the City Council on an agenda item, please wait for the Mayor or Chair to request public comment. When the Mayor or Chair recognizes you, please start your public comment by giving your name and address. Comments are to be addressed to the Mayor or Chair. The Mayor or Chair will direct your comments to the appropriate elected officials, staff, or others for response. Keep your comments respectful, brief, to the point, and relevant to the agenda item being considered. Each speaker from the public will be allowed one turn to speak for discussion of an agenda item.

Below is a portion of the Rules of Order and Procedure of the Fayetteville City Council pertaining to City Council meetings:

Agenda Additions: A new item which is requested to be added to the agenda at a City Council meeting should only be considered if it requires immediate City Council consideration and if the

normal agenda setting process is not practical. The City Council may only place such new item on the City Council meeting's agenda by suspending the rules by two-thirds vote. Such agenda addition shall be heard prior to the Consent Agenda.

Consent Agenda: Consent Agenda items shall be read by the Mayor and voted upon as a group without discussion by the City Council. If a Council Member wishes to comment upon or discuss a Consent Agenda item that item shall be removed and considered immediately after the Consent Agenda has been voted upon.

Unfinished Business and New Business:

Overview Period: Agenda items at a City Council meeting shall be introduced by the Mayor and, if an ordinance, read by the City Attorney. City staff shall then present a report. An agenda applicant (city contractor, rezoning or development applicant, appellant from a final decision of the Planning Commission or City Staff, etc.) may present its proposal only during this presentation period but may be recalled by a Council Member later to answer questions. City staff, Council Members and applicants may use electronic visual aids in the City Council meeting as part of the presentation of the agenda item. City staff's presentation and an Applicant's presentation whether presented by one or more than one presenter shall each be limited to a maximum of ten (10) minutes unless the City Council by unanimous consent or majority vote allows additional time.

Public Comments: Public comment at a City Council meeting shall be allowed on all items of unfinished and new business and subjects of public hearings. Amendments may receive public comments only if approved by the City Council by unanimous consent or majority vote. Speakers present in the City Council Chambers shall be recognized before speakers participating by electronic means. Speakers shall be limited to a maximum of three (3) minutes to discuss the agenda item or amendment being considered by the City Council. The City Council may allow a speaker additional time by unanimous consent or majority vote. As part of a person's public comments allowed above, the speaker may use electronic visual aids during their three (3) minutes presentation period concerning the agenda item being considered by the City Council.

Courtesy and Respect: All members of the public, all city staff and elected officials shall accord the utmost courtesy and respect to each other at all times. All shall refrain from comments that are harassing or amount to a personal attack against any identifiable individual including abusive comments and derogatory remarks about integrity or offer any other comments that are also not limited to the discussion of the specific agenda item being considered by the City Council. Any member of the public who violates these standards shall be ruled out of order by the Mayor, must immediately cease speaking and shall leave the podium.

Cell Phones and Pagers: Cell phones must be turned off or put in silent mode and not used within the City Council Chambers during City Council meetings. Pagers must be turned off or put in silent mode within the City Council Chambers during City Council meetings. These restrictions also apply during Agenda Sessions.

Smoking Prohibited: There will be no smoking allowed in the City Council Chambers during City Council meetings.

Virtual City Council Meetings Authorized: After proper notice has been provided to the public, City Council Members are authorized to assemble, gather, meet, and conduct open public meetings (including speaking, voting and passing ordinances and resolutions) through appropriate electronic means which ensure the public's right to attend by being able to listen to the proceedings and discussions. These open public meetings include City Council meetings and agenda sessions as well as City Council Member Committee meetings.

Interpreters or Telecommunications Devices for the Deaf (TDD), for hearing impaired are available for all City Council meetings, a 72-hour advance notice is required. For further information or to request an interpreter, please call 479-575-8330.

A copy of the complete City Council agenda is available on our website at www.fayetteville-ar.gov or in the Office of the City Clerk, 113 W. Mountain, Fayetteville, Arkansas (479) 575-8323.

Robert B. Stafford
Council Member
Ward 1 Position 1

Chair
Mike Wiederkehr
Council Member
Ward 2 Position 2



Sarah Bunch
Council Member
Ward 3 Position 2

Teresa Turk
Council Member
Ward 4 Position 1

Nominating Committee December 17, 2024

**Council Members Present – Chair Mike Wiederkehr, Robert Stafford, Teresa Turk
Council Member Sarah Bunch absent.**

The Nominating Committee recommends the following candidates for appointment:

ACTIVE TRANSPORTATION ADVISORY COMMITTEE

Meredith Castin..... One Resident-at-Large Term Ending 12/31/2026.

David Criswell One Resident-at-Large Term Ending 12/31/2026.

Abby Hildebrandt..... One Resident-at-Large Term Ending 12/31/2026.

Rebekka Hollender.... One Resident-at-Large Term Ending 12/31/2026.

AIRPORT BOARD

David Hopper..... One Federal Aviation Representative Term Ending 12/31/2029.

AUDIT COMMITTEE

Amanda Goodman..... One Resident-at-Large Term Ending 12/31/2027.

BLACK HERITAGE PRESERVATION COMMISSION

Lois Bryant ... One Representative Familiar with a Historical Black Church
Term Ending 12/31/2027.

Vacant..... One Member-at-Large Term Ending 12/31/2027.

BOTANICAL GARDEN SOCIETY OF THE OZARKS BOARD

Laura Underwood..... One Member-at-Large Term Ending 12/31/2027.

ENVIRONMENTAL ACTION COMMITTEE

John Dominick III One Local Industry Representative Term Ending 12/31/2027.

Thomas Deere One Resident-at-Large Term Ending 12/31/2027.

Grimsley Graham One Resident-at-Large Term Ending 12/31/2027.

FAYETTEVILLE HOUSING AUTHORITY

Melissa Terry Recommended by the Housing Authority
One Public-at-Large Term Ending 12/28/2029.

HISTORIC DISTRICT COMMISSION

Tommie Davis..... Recommended by Mayor Jordan
One Unexpired Member-at-Large Term Ending 12/31/2027.

PARKS, NATURAL RESOURCES, AND CULTURAL AFFAIRS ADVISORY BOARD

Sky Caldwell..... One Public-at-Large Term Ending 12/31/2027.

Yarri Davis..... One Public-at-Large Term Ending 12/31/2027.

Doug Walsh One Public-at-Large Term Ending 12/31/2027.

URBAN FORESTRY ADVISORY BOARD

Bethany Douglas One Tree Service Representative Term Ending 12/31/2026.

Joseph Fox One Public-at-Large Term Ending 12/31/2026.

Kate Shirley One Public-at-Large Term Ending 12/31/2026.

Vacant One Public-at-Large Term Ending 12/31/2026.

Robert B. Stafford
Council Member
Ward 1 Position 1

Chair
Mike Wiederkehr
Council Member
Ward 2 Position 2



Sarah Bunch
Council Member
Ward 3 Position 2

Teresa Turk
Council Member
Ward 4 Position 1

Nominating Committee December 17, 2024

**Council Members Present – Chair Mike Wiederkehr, Robert Stafford, Teresa Turk
Council Member Sarah Bunch absent.**

The Nominating Committee rejects the following recommendation for appointment:

FAYETTEVILLE HOUSING AUTHORITY

Melissa Terry Recommended by the Housing Authority
One Public-at-Large Term Ending 12/28/2029.



City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8323

Legislation Text

File #: 2024-01076

AN ORDINANCE TO REPEAL ORDINANCE 6800

ORDINANCE 6800 WAS PASSED ON OCTOBER 15, 2024, BUT WAS DETERMINED TO NOT TAKE EFFECT UNTIL 90 DAYS FROM PASSAGE AND APPROVAL. THIS RESTRICTION ON HOW MUCH LANDLORDS COULD CHARGE PROSPECTIVE TENANTS FOR RENTAL APPLICATION REVIEWS AND FOR POSSIBLE BACKGROUND CHECKS MAY VIOLATE A.C.A. § 14-43-608 REGULATION OF PRICES.

AN ORDINANCE TO REPEAL ORDINANCE 6800 WHICH WAS TO ENACT § 120.03 LIMITATIONS ON RENTAL APPLICATIONS AND BACKGROUND CHECK FEES

WHEREAS, Ordinance 6800 was passed on October 15, 2024, but was determined to not take effect until 90 days from passage and approval; and

WHEREAS, this restriction on how much landlords could charge prospective tenants for rental application reviews and for possible background checks may violate A.C.A. § 14-43-608 **Regulation of prices**.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby repeals Ordinance 6800 to prevent any possible violation of state law.

AGENDA REQUEST FORM

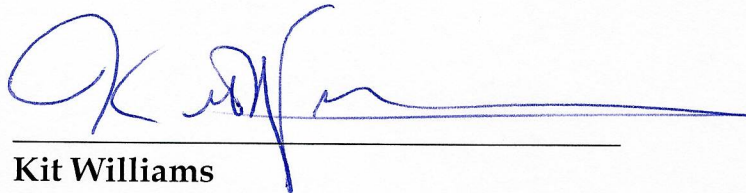
FOR: Council Meeting of December 17, 2024

FROM: City Attorney Kit Williams

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

AN ORDINANCE TO REPEAL ORDINANCE 6800 WHICH WAS TO ENACT § 120.03
LIMITATIONS ON RENTAL APPLICATIONS AND BACKGROUND CHECK FEES

APPROVED FOR AGENDA:



Kit Williams
City Attorney

December 12, 2024
Date



OFFICE OF THE
CITY ATTORNEY

DEPARTMENTAL CORRESPONDENCE



Kit Williams
City Attorney

Blake Pennington
Senior Assistant City Attorney

Hannah Hungate
Assistant City Attorney

Stacy Barnes
Paralegal

TO: **Mayor Jordan**
City Council
Kara Paxton, City Clerk/Treasurer

CC: **Susan Norton**, Chief of Staff
Paul Becker, Chief Financial Officer
Blake Pennington, Senior Assistant City Attorney

FROM: **Kit Williams**, City Attorney

DATE: **December 12, 2024**

RE: **Repeal of Not Yet in Effect Ordinance to Limit Amount of Money that Landlords can Charge for Application Fee and Background Checks**

I have always believed that when I find myself in an unanticipated hole, the first thing I need to do is not to claim that this isn't really a hole, but to stop digging. I was concerned early in the development of § 120.03 **Limitation on Rental Application and Background Check Fees** that this "proposal is dangerously close to violation of State Law. A.C.A. § 14-54-1409 **Rent control preemption**. '(b) A local government shall not enact, maintain or enforce an ordinance or resolution that would have the effect of controlling the amount of rent charged for leasing private residential or commercial property.'" Memo to Council Member Sarah Moore, 9-12-24.

I eventually concluded that limiting the rental application fee and any background fee would not "have the effect of controlling the amounts of rent charged" and so allowed the City Council to enact § 120.03 which will not go into effect until mid-January of 2025.

Unfortunately, our legal research missed A.C.A. § 14-43-608 **Regulation of prices** which states: "No municipality shall have the power to regulate prices for goods, rentals, or services sold or performed within the municipality by individuals or firms."

At first blush, this may not appear to restrict how much a landlord could charge a rental applicant to review the rental application form or obtain a credit or criminal background check on the applicant. However, the term "services" is very broad and could be interpreted by a court to mean the "service" of reviewing the application form and obtaining a background check of the applicants' credit and criminal history. I believe this statutory prohibition on a city's power to regulate prices for "services sold or performed" would likely invalidate Ordinance 6800.

I regret not finding this statutory provision prior to the City Council's enactment of Ordinance 6800. Fortunately, the ordinance is not yet effective so my mistake can be corrected by rapidly repealing the enacting ordinance. I have prepared such repealing ordinance and attached it to this memo. I will request that the City Council allow me to walk this repealing ordinance onto the December 17, 2024 City Council Meeting to prevent the improper enacting ordinance approved on October 15, 2024 from ever taking effect.

ORDINANCE NO. _____

**AN ORDINANCE TO REPEAL ORDINANCE 6800 WHICH WAS TO ENACT § 120.03
LIMITATIONS ON RENTAL APPLICATIONS AND BACKGROUND CHECK FEES**

WHEREAS, Ordinance 6800 was passed on October 15, 2024, but was determined to not take effect until 90 days from passage and approval; and

WHEREAS, this restriction on how much landlords could charge prospective tenants for rental application reviews and for possible background checks may violate A.C.A. § 14-43-608 **Regulation of prices.**

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby repeals Ordinance 6800 to prevent any possible violation of state law.

PASSED and APPROVED this 17th day of December, 2024.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

By: _____
KARA PAXTON, City Clerk/Treasurer



MEETING OF DECEMBER 17, 2024

TO: Mayor Jordan and City Council
THRU: Paul Becker, Chief Financial Officer
FROM: Steven Dotson, Internal Auditor
SUBJECT: **Additional ARPA budget reallocation to 7hills**

RECOMMENDATION:

Recommend Council approve a commitment of \$23,719.80 in ARPA funds to the Seven Hills Homeless Center and approval of a budget adjustment.

BACKGROUND:

In 2023, Council requested that the City prepare an RFP to solicit proposals to address housing instability within the City of Fayetteville. On October 17, 2023 the City Council selected a proposal by the Seven Hills Homeless Center for a comprehensive solution from concept to execution to address housing instability using the remaining \$1.63 million of the City's American Rescue Plan Act funds. This is a collaborative effort, which includes ARPA funding to these local nonprofit organizations: Seven Hills Homeless Center, Divaology Inc. / Diva and Dude Community Outreach, NWA Continuum of Care, The Salvation Army, and Serve Northwest Arkansas, Inc. / New Beginnings NWA.

DISCUSSION:

The City was notified on 11/26/24 that Divaology Inc. / Diva and Dude would be returning their remaining unspent funding from the ARPA program to the City, and the funding now needs to be reallocated.

Per the US Department of Treasury Coronavirus State and Local Fiscal Recovery Fund (SLFRF) regulations, the City must obligate all ARPA funds by December 31, 2024.

With approval of this resolution and budget adjustment, the full \$1.63 million would remain allocated to the overall housing instability project that the Council had initially approved in October of 2023. The new total ARPA award to be allocated to Seven Hills Homeless Center would be as follows:

Original allocation \$480,232.00
Reallocation #1 \$71,411.00
New allocation \$23,719.80
= Total ARPA allocation of \$575,362.80

This ARPA commitment will be used (1) to provide additional funding for overnight shelter staffing and security, and (2) to pay for overnight shelter expenses related to providing services for the unsheltered/homeless population in Fayetteville.

BUDGET/STAFF IMPACT:

Mailing address:

113 W. Mountain Street
Fayetteville, AR 72701

www.fayetteville-ar.gov

Funding would be allocated from Divaology, Inc. to Seven Hills Homeless Center through the attached budget adjustment.

ATTACHMENTS: SRF (#3), BA (#4)



City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8323

Legislation Text

File #: 2024-0935

Additional ARPA budget reallocation to 7hills

A RESOLUTION TO COMMIT ARPA FUNDS IN THE AMOUNT OF \$23,719.80.00 TO THE SEVEN HILLS HOMELESS CENTER, AND TO APPROVE A BUDGET ADJUSTMENT

WHEREAS, the City of Fayetteville was awarded \$17.9 million in American Rescue Plan Act funding to assist in responding to the negative effects of the COVID-19 pandemic; and

WHEREAS, beginning in 2021, the City established a number of projects to address the effects of the COVID-19 pandemic throughout the City including assistance to nonprofit organizations, vaccine incentives, workforce training, development programs, floodplain conservation, a childcare assistance program, funding to provide new ambulances to the regional ambulance authority, and programs to address housing instability in Fayetteville; and

WHEREAS, the City was notified that Divaology, Inc. is returning the remaining unspent funds allocated to their projects that needs to be reallocated; and

WHEREAS, staff recommends that the funds be reallocated to Seven Hills Homeless Center to provide additional funding for overnight shelter staffing and security, and to pay for overnight shelter expenses related to providing services for the unsheltered/homeless population.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby commits ARPA funds in the amount of \$23,719.80 to the Seven Hills Homeless Center to provide additional funding for overnight shelter staffing and security, and to pay for overnight shelter expenses related to providing services for the unsheltered/homeless population.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment, a copy of which is attached to this Resolution.

City of Fayetteville Staff Review Form

2024-935

Item ID

12/17/2024

City Council Meeting Date - Agenda Item Only
N/A for Non-Agenda Item

Steven Dotson

11/27/2024

CHIEF FINANCIAL OFFICER (110)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Recommend Council approve a commitment of a second increase in ARPA funds to the Seven Hills Homeless Center and approval of a budget adjustment.

Budget Impact:

2246.800.9730-5315.00

ARPA

Account Number

Fund

20023.2021

Seven Hills

Project Number

Project Title

Budgeted Item? Yes

Total Amended Budget

\$ 551,643.00

Expenses (Actual+Encum)

\$ 219,594.02

Available Budget

\$ 332,048.98

Does item have a direct cost? No

Item Cost

\$ -

Is a Budget Adjustment attached? Yes

Budget Adjustment

\$ 23,720.00

Remaining Budget

\$ 355,768.98

V20221130

Purchase Order Number:

Previous Ordinance or Resolution #

Change Order Number:

Approval Date:

Original Contract Number:

Comments:

Budget Year	Division	Adjustment Number
2024	CHIEF FINANCIAL OFFICER (110)	
	Requestor: Steven Dotson	

Recommend Council approve the commitment of a second increase in ARPA funds to the Seven Hills Homeless Center and approval of a budget adjustment.

	COUNCIL DATE:	12/17/2024
	ITEM ID#:	2024-935
	Holly Black	
	11/27/2024 12:05 PM	
	Budget Division	Date
	TYPE:	D - (City Council)
	JOURNAL #:	
	GLDATE:	
	CHKD/POSTED:	/
RESOLUTION/ORDINANCE		

[illegible]



MEETING OF DECEMBER 17, 2024

TO: Mayor Jordan and City Council

THRU: Susan Norton, Chief of Staff
Alison Jumper, Director of Parks, Natural Resources and Cultural Affairs

FROM: Lee Farmer, Recreation Superintendent

SUBJECT: **Amendment #2 to Area Agency of Northwest Arkansas**

RECOMMENDATION:

Approval of Amendment #2 between the City of Fayetteville and the Area Agency on Aging of Northwest Arkansas (AAA) in the amount of \$160,759 to provide public recreation services for senior residents of Fayetteville.

BACKGROUND:

On December 20, 2022, the City entered into an agreement with AAA to provide public recreation services for senior residents of Fayetteville. In 2023, the City Council approved an amendment to the agreement to reflect increased funding from the City.

DISCUSSION:

AAA provides recreational programs for senior residents at the Fayetteville Senior Activity and Wellness Center and transportation services for the residents of Hillcrest Towers. Those activities include 17 weekly activity and wellness classes, 4 instructor-led line dancing sessions per week, daily pool play and a weekly pool tournament, an open exercise equipment area, ping pong, and other activities. Transportation services include 4 separate services that provide 31 round trips per day and offer front door pick-up and assistance.

Due to the rising cost of these services, AAA requested an increase in funding provided by the City from \$145,804 annually to \$160,759 annually.

BUDGET/STAFF IMPACT:

The 2025 budget includes this funding request of \$160,759, pending City Council approval of the budget.

ATTACHMENTS: SRF (#3), Walker Senior Center - Amendment #2 (#4), Area Agency on Aging Funding Request (#5)



City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8323

Legislation Text

File #: 2024-0795

Amendment #2 to Area Agency of Northwest Arkansas

A RESOLUTION TO APPROVE AMENDMENT NO. 2 TO THE CONTRACT WITH THE AREA AGENCY ON AGING OF NORTHWEST ARKANSAS IN THE AMOUNT OF \$160,759.00 TO PROVIDE PUBLIC RECREATION SERVICES FOR SENIOR RESIDENTS OF FAYETTEVILLE, CONTINGENT ON APPROVAL OF THE 2025 ANNUAL CITY BUDGET

WHEREAS, on December 20, 2022, the City entered into an agreement with the Area Agency on Aging of Northwest Arkansas (AAA) to provide recreation programs for senior residents at the Fayetteville Senior Activity and Wellness Center and transportation services for the residents of Hillcrest Towers in 2023 at a cost of \$145,804.00 with automatic renewals for four additional years; and

WHEREAS, due to the rising cost of services, AAA has requested an increase in funding from \$145,804.00 to \$160,759.00 to provide these services in 2025.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves Amendment No. 2 to the contract with the Area Agency on Aging of Northwest Arkansas with an increase in funding to the amount of \$160,759.00 to provide public recreation programs and transportation services for senior residents of Fayetteville, contingent on approval of the 2025 annual city budget.

City of Fayetteville Staff Review Form

2024-795

Item ID

12/12/2024

City Council Meeting Date - Agenda Item Only
N/A for Non-Agenda Item

Lee Farmer

11/22/2024

PARKS & RECREATION (520)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Approval of Amendment #2 between the City of Fayetteville and the Area Agency on Aging of Northwest Arkansas (AAA) in the amount of \$160,759 to provide public recreation services for senior residents of Fayetteville.

Budget Impact:

1010.090.6600.5718.01

General

Account Number

Fund

40901.4004

AAANWA (Senior Center)

Project Number

Project Title

Budgeted Item? Yes

Total Amended Budget

\$ 160,759.00

Expenses (Actual+Encum)

\$ -

Available Budget

\$ 160,759.00

Does item have a direct cost? Yes

Item Cost

\$ 160,759.00

Is a Budget Adjustment attached? No

Budget Adjustment

\$ -

Remaining Budget

\$ -

V20221130

Purchase Order Number:

Previous Ordinance or Resolution # 320-22

Change Order Number:

Approval Date:

Original Contract Number:

Comments:

**AMENDMENT #2 TO THE
CONTRACT BETWEEN
THE CITY OF FAYETTEVILLE, ARKANSAS
AND
AREA AGENCY ON AGING OF NORTHWEST ARKANSAS**

WHEREAS, on December 20, 2022, pursuant to Resolution No. 320-22, the City of Fayetteville and the Area Agency on Aging of Northwest Arkansas ("AAA"), entered into a contract for public recreational opportunities for the senior citizens of Fayetteville in 2023 with automatic renewals for four additional years; and

WHEREAS, on December 19, 2023, the City Council approved Resolution No. 279-23 which increased the contract price from \$145,804.00 to \$154,104.00 annually; and

WHEREAS, because of the rising costs of providing those services, AAA has requested an increase in funding provided by the City from \$154,104 to \$160,759 annually and that increase was approved by the City Council in the 2025 Annual Budget and Work Program.

NOW, THEREFORE, BE IT KNOWN TO ALL:

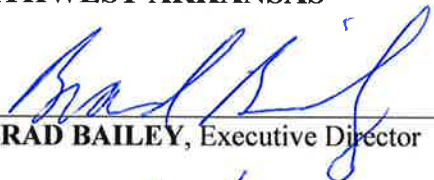
That the City of Fayetteville, Arkansas and the Area Agency on Aging of Northwest Arkansas hereby agree, effective as of the date the amendment is signed by Mayor Jordan, that the introductory paragraph in Section 1 of the Contract shall be amended to read as follows:

"The City of Fayetteville shall provide the sum of \$160,759 in equal monthly installments from January 1 until December 31, 2025 in consideration of the following duties and obligations to be performed by the AAA:"

The parties agree and understand that this Amendment is supplemental to their Contract attached to Resolution No. 320-22, and that it does not alter, amend or abridge any of the rights, obligations, or duties of the parties not expressly addressed herein.

IN WITNESS WHEREOF, the parties hereto have caused their signatures to be set by their authorized representative effective the date set forth herein above.

**AREA AGENCY ON AGING OF
NORTHWEST ARKANSAS**

By: 
BRAD BAILEY, Executive Director

Date: 11/15/24

CITY OF FAYETTEVILLE

By: _____
LIONELD JORDAN, Mayor

Date: _____

ATTEST:

KARA PAXTON, City Clerk/Treasurer

**CITY OF FAYETTEVILLE
REQUEST FOR PUBLIC FUNDS
FY2025**

Agency Name: Area Agency on Aging of Northwest Arkansas
Address: 1510 Rock Springs Road
Harrison, AR 72601
Mailing Address: PO Box 1795
Harrison, AR 72602
Phone: 870-741-1144 **Fax:** 870-741-6214
Agency Director: Brad Bailey
Phone: 870-741-1144 **Fax:** 870-741-6214
Email: bbailey@aaanwar.org
Is this a nonprofit organization? ☒ Yes ☐ No
Tax Exempt Status: Exempt
Federal ID Number: 71-0521887
Fiscal Year End: 6/30/2024
Funding Requested for FY 2025: \$ 182,577.37
^^{this line will populate automatically}^^

Program / Agency Description

(Provide an overview of your program / agency in the space below.)

In 1972, Title III of the Older Americans Act was enacted to provided funding for local community projects to begin nutrition services to the elderly. The projects were designed to provide persons age 60 and older and their spouses with at least one hot nutritious meal five days per week. Emphasis was placed on providing services to older persons with the greatest economic need, and also attempting to help reduce isolation caused by old age. The Area Agency on Aging of Northwest Arkansas was formed in September 1972 within the Northwest Arkansas Economic Development District (NWAEDD). Nine northwest counties (Baxter, Benton, Boone, Carroll, Madison, Marion, Newton, Searcy, and Washington) were designated as areas of responsibility for the agency. In 1979 legislation was enacted to set up the eight Area Agency on Aging groups in Arkansas as individual, autonomous non-profit organizations. At that time AAANWA left NWAEDD and established its own agency. AAANWA has continued to grow and change to accommodate the needs of the growing older population of Northwest Arkansas. Since the inception of the Senior Services program in 1981, AAANWA has contracted with NWAEDD to provide the direct services of the program. In 2014, NWAEDD decided to discontinue the contract. On April 1 of 2014, AAANWA began providing direct services for 12 full-time senior centers in six counties, including the Fayetteville Senior Activity and Wellness Center and the Hillcrest Towers Senior Community Center. These senior centers provide a variety of wellness and social/recreational activities which engage the elderly in a more active lifestyle to help promote good mental, physical, and emotional health.

The Fayetteville Senior Activity and Wellness Center provides activities for seniors Monday through Friday from 8am-4:30pm at 945 S. College in Fayetteville, while Hillcrest Towers provide services seven days a week at 1 N School Avenue. Senior services include over 280 daily home delivered and congregate meals, taxi transportation to and from the centers, taxi services from a senior's residence to local appointments, weekly day trips, and regularly scheduled activities and events each day.

PROGRAM INFORMATION

Mission Statement

(if you do not have a mission statement, please indicate N/A.)

The Area Agency on Aging of Northwest Arkansas will commit financial and human resources to enhance the lives of the Northwest Arkansas senior and elderly community. We are a private, non-profit organization that has been serving seniors in Baxter, Benton, Boone, Carroll, Madison, Marion, Newton, Searcy and Washington Counties in Northwest Arkansas since 1979. We also provide services to Military Veterans and persons with disabilities.

Vision Statement

(if you do not have a vision statement, please indicate N/A.)

Helping Seniors lead independent, meaningful, dignified and active lives. The Fayetteville Senior Activity and Wellness Center's vision is to serve seniors, including those who come into our center, those who receive taxi services, and those who receive home delivered meals through the Meals on Wheels Program. The Center strives to engage seniors physically, mentally and emotionally by providing activities which are fun, educational, informative, and stimulating.

Provide a description of the services provided by your agency or program, including a description of the persons or groups who will benefit from the services.

The Area Agency on Aging of NWA provides for Adult Day Centers & Services, Care Coordination, Family Caregiver Support Programs, Housing, In-Home Services & Assistance, Resource Directory, Meals on Wheels Provider, Medical Supplies, Personal Emergency Response System (Life Alert), and Senior Activity Centers.

The Fayetteville Senior Activity and Wellness Center and Hillcrest Towers senior community center provide multiple services to the senior citizens of Fayetteville including:

- One hundred daily Congregate on-site Meals at the Senior Center and Hillcrest Towers, that provide valuable hours of socialization for seniors along with a nutritionally balanced hot meal.

- Over 170 daily Home-Delivered meals for homebound seniors who are unable to prepare a meal for themselves. Many of these clients live alone and have no other contact with the outside world besides the Meals on Wheels drivers who visit them every day.

- Three to four Senior day trips each month. Trips are typically to area attractions such as local unique shopping opportunities and casinos, as well as trips to Crystal Bridges and Turpentine Creek Big Cat Refuge. Regional trips include attractions in Joplin, Ft Smith, and Tulsa.

- Four separate transportation services that provide 31 round trips per day and offer front door pick-up and assistance. The Congregate Taxi transports clients from their homes to the senior center to participate in morning activities, socialization, and a congregate meal at lunch, then returns them home in the early afternoon. The Hillcrest Taxi picks up clients at Hillcrest Towers and transports them to local appointments and includes wheelchair accessibility. The Grocery Taxi takes clients on Tuesday and Thursday mornings to local grocery stores. The Regular Taxi picks up seniors at their home and takes them to local appointments including the Doctor's office, Social Security Office, hair appointments, Physical Therapy, and other destinations. These four taxi services allow elderly citizens to maintain their independence by continuing to participate in recreational/social activities, conduct personal business, and access medical services.

- Typical social activities at the center include Bingo, Tuesday Pool Tournaments, Canasta, Mexican Train Dominoes, Educational Guest Speakers, Ping Pong, Ping Pong, Friends & Flowers Gardening Program, Water Colors Class, Health Fairs, Live Music, Movies on the Big Screen, and other special events. Seniors participate in over 80 social activities per day.

- 23 weekly exercise and wellness classes including Tai chi, Silver Sneakers, Yoga, Fun to be Fit, Instructor-led Line Dancing, Tap Dance Class, Stand & Strengthen, Pilates, and Use it or Lose It.

PROGRAM INFORMATION

Which City focus areas do your program services or activities support?

☐

Public Safety

☒

Recreational
Activities

☒

Transportation

☐

Economic
Development

Describe how your agency / program's activities or services support the City focus area(s) identified above.

The Fayetteville Senior Activity and Wellness Center provides multiple recreational activities for seniors on a daily basis. These activities include 19 weekly activity and wellness classes, 4 instructor-led line dancing sessions per week, daily pool play and a weekly pool tournament, an open exercise equipment area, ping pong, and other activities as listed in detail in the description of services response.

The Fayetteville Senior Activity and Wellness Center provides four different taxi services for seniors in the Fayetteville area (as detailed in the description of services section). Seniors are picked up at their residence and taken to the Senior Center or other locations in the area. Several of these seniors are able to participate in health and wellness classes at the Senior Center that they would otherwise not be able to attend. Each of these services and activities are designed to help seniors maintain their independence by improving their emotional, physical and mental well-being, and providing services they would otherwise not be able to provide on their own.

PROGRAM GOALS & OBJECTIVES

Provide a description of your program / agency's goals and objectives.

The goal of the Fayetteville Senior Activity and Wellness Center is to meet the needs of all seniors in the Fayetteville area. We provide quality services to every eligible senior citizen in Fayetteville who wants to participate in our programming. We also strive to meet the anticipated needs of seniors in the near future, as the number of seniors grows rapidly in the Fayetteville area.

Describe how projects will be evaluated.

The Fayetteville Senior Activity and Wellness Center uses monthly reports to evaluate the number of participants who receive congregate on-site meals and home-delivered meals. In addition, we track monthly transportation units that tell us how many seniors are using our taxi service. We also track socialization units for the number of seniors who are participating in the many activities that we provide here at the center. A great deal of our funding is based on state and federal reimbursement for these services we provide. All services provided are recorded daily through a computerized membership card scanning system and tabulated by staff at the center. Comparisons are done monthly to ensure that we are meeting the needs of an ever-growing senior population.

The Fayetteville Senior Activity and Wellness Center provides a Quarterly Report to the City which details the types of services we provide, the number of hours of programming, the number of transportation units provided, and all other relevant information. As a 501(c)3, all AAANWA record keeping is available for review, with the exception of client HIPAA information.

In addition, the Senior Center provides annual surveys for participants to get their feedback on current activities, meals, taxi services, and other programming provided through the Center. These surveys also request participant input and ideas for potential new programs and activities.

BUDGET INFORMATION

Provide line item detail for each category below.

PERSONNEL SERVICES			
Description	Previous Year Actual	Current Year Budget	FY 2025 Request
Salaries	\$ 306,162.90	\$ 309,120.00	\$ 324,000.00
Employee Merit	\$ 6,248.22	\$ 12,880.00	\$ 19,800.00
Social Security	\$ 21,487.40	\$ 22,000.00	\$ 23,000.00
Other	\$ 32,231.11	\$ 33,000.00	\$ 35,000.00
Total Personnel Services	\$ 366,129.63	\$ 377,000.00	\$ 401,800.00

OPERATING EXPENSES			
Description	Previous Year Actual	Current Year Budget	FY 2025 Request
Phone	\$ 4,096.03	\$ 3,800.00	\$ 4,350.00
Printing & Publishing	\$ 39.65	\$ 200.00	\$ 500.00
Postage	\$ 118.77	\$ 200.00	\$ 400.00
Advertising	\$ 7,245.33	\$ 6,250.00	\$ 6,900.00
Travel	\$ 2,801.58	\$ 2,700.00	\$ 2,900.00
Rent	\$ 0.00	\$ 0.00	\$ 0.00
Utilities	\$ 54,196.83	\$ 57,000.00	\$ 60,000.00
Technology	\$ 2,488.15	\$ 2,900.00	\$ 2,900.00
Materials/Supplies	\$ 47,552.95	\$ 55,637.17	\$ 56,000.00
Transportation	\$ 38,129.89	\$ 23,550.00	\$ 24,000.00
Other	\$ 449,728.37	\$ 420,610.03	\$ 425,000.00
Total Operating Expenses	\$ 606,397.55	\$ 572,847.20	\$ 582,950.00

SALARY DISCLOSURE (attach additional sheet if necessary)		
Agency Positions	Compensation	Percent Funded by COF
DIRECTOR	\$ 60,000.00	40
PROGRAM ASSISTANT (4)	\$ 73,000.00	30
VAN DRIVERS (4)	\$ 68,000.00	30
JANITORIAL	\$ 40,200.00	100
EXERCISE CLASS INSTRUCTORS	\$ 30,000.00	100
FOOD SERVICE MANAGER	\$ 32,000.00	0
ASSISTANT COOK	\$ 27,000.00	0
KITCHEN ASSISTANTS (4)	\$ 68,000.00	0
MEAL DRIVERS (3)	\$ 61,200.00	0

BUDGET INFORMATION

Proposed funding period (from) JANUARY 1, 2025 (to) DECEMBER 31, 2025

Indicate reason for request:

✓

- Funding for agency
- Funding for specific program or project
- Funding primarily for personnel services
- Funding primarily for operating expenses

FY 2025 PERSONNEL SERVICES			
Description	City Funds (direct funding requested from the City of Fayetteville)	Other Funding Sources (funds received from other sources and any indirect City funding such as rent, etc.)	TOTAL
Salaries	\$ 136,500.00	\$ 172,620.00	\$ 309,120.00
Employee Merit	\$ 0.00	\$ 12,880.00	\$ 12,880.00
Social Security	\$ 0.00	\$ 22,000.00	\$ 22,000.00
Other	\$ 0.00	\$ 33,000.00	\$ 33,000.00
Total Personnel Services	\$ 136,500.00	\$ 240,500.00	\$ 377,000.00

FY 2025 OPERATING EXPENSES			
Description	City Funds (direct funding requested from the City of Fayetteville)	Other Funding Sources (funds received from other sources and any indirect City funding such as rent, etc.)	TOTAL
Phone	\$ 1,140.00	\$ 3,210.00	\$ 4,350.00
Printing & Publishing	\$ 120.00	\$ 380.00	\$ 500.00
Postage	\$ 40.00	\$ 360.00	\$ 400.00
Advertising	\$ 2,812.50	\$ 4,087.50	\$ 6,900.00
Travel	\$ 0.00	\$ 2,900.00	\$ 2,900.00
Rent	\$ 0.00	\$ 0.00	\$ 0.00
Utilities	\$ 15,000.00	\$ 45,000.00	\$ 60,000.00
Technology	\$ 0.00	\$ 2,900.00	\$ 2,900.00
Materials/Supplies	\$ 22,254.87	\$ 33,745.13	\$ 56,000.00
Transportation	\$ 4,710.00	\$ 19,290.00	\$ 24,000.00
Other	\$ 0.00	\$ 425,000.00	\$ 425,000.00
Total Operating Expenses	\$ 46,077.37	\$ 536,872.63	\$ 582,950.00

Total Operating Budget	\$ 182,577.37	\$ 777,372.63	\$ 959,950.00
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^^this amount represents your
funding request

BUDGET INFORMATION

Please address the first question below only if your agency received funding for FY 2024 and is requesting a change in funding level for FY 2025.

What is the reason for the requested increase or decrease in funding level?

By combining census data and national hunger information, we can estimate that over 7,500 seniors in Washington County suffer the threat of hunger. These same seniors often struggle with isolation as well. It is imperative that the AAANWA is able to continue to provide the services they currently provide for Fayetteville seniors, as well as expanding their services to provide for seniors in need that they currently do not serve. The requested increase in funds would be used to help cover the costs associated with the services provided by the Fayetteville Senior Activity and Wellness Center and Hillcrest Towers senior community center. Our programming here at the Center continues to see steady growth since we reopened to the public after Covid 19. With our growing senior population, an estimated 10,000 people will turn 65 every single day for the next 15 years in the United States. These growing numbers will put an increased burden on Meals on Wheels programs, senior transportation programs, and on Senior Center Activities and Programs. With a 41 year history, the Area Agency on Aging of Northwest Arkansas is directly positioned to best meet these needs for the Fayetteville senior population. The AAANWA possess the staff, facilities, resources, knowledge, and experience to impact seniors in the most effective and efficient way possible. Identifying those in need is one of the most difficult aspects of combating senior hunger and isolation. The AAANWA's extensive network of operations allows them to best identify those in need, along with determining and providing the services that best meet those needs. The current inflation and inflation projections, as well as unusually high gas prices, put a heavy financial strain on our Meals on Wheels Program and Taxi services. The increased food prices also impact our Congregate lunches served at the Senior Center and Hillcrest Towers. With most seniors having less "spending" money due to the inflation and gas prices, this impacts our donations from participants and donors. In a time when we need increased funding to maintain services, our donors have less to give. This makes the City's annual contribution to the Center critically important to our ability to maintain our services and programs.

All respondents must answer the question below.

If City funding is allocated for only one year, what strategies do you have in place to sustain your program?

Indicate plans for obtaining funds outside of City funding.

The on-going costs for the centers is partially funded by state and federal reimbursements for elderly services. The next level of funding comes from client contributions, grants, private donations, and ongoing fundraising activities. Employees devote a significant amount of time trying to identify and secure grants, donations, and other funding sources to help cover the costs for essential senior services. Should the City of Fayetteville funding be lost or reduced, AAANWA would determine what level of recreational services could be provided with available funding and make adjustments accordingly. The loss of City funding would have a major impact on the amount of recreational activities offered and the number of elderly citizens able to participate in these activities. The certified instructor exercise classes would be reduced and/or eliminated without City funding, and all programming would be decreased by a lack of funding.

BUDGET INFORMATION

If City funding is denied, describe the impact on your program.

(Please limit your response to this page only.)

The loss of City of Fayetteville funding would have a devastating impact on the recreational, health promotion, and wellness programming provided by the Fayetteville Senior Activity and Wellness Center and Hillcrest Towers Senior Community Center. It would mean the loss of instructors for exercise and wellness classes, and a reduction in social and recreational activities due to a decrease in funds for providing these services. In addition, transportation services would be reduced, and many seniors would not be able to receive essential transportation to the center and other destinations in the community. A loss of funding would have a profound negative impact on senior health, senior hunger, and senior independence in the Fayetteville community. We continue to see an increase in Meals on Wheels clients and our other programs, as Seniors become more comfortable returning to their normal activities. The last few years have been especially difficult on seniors and the role of our Center has never been more essential to the well-being of the local senior community.

The loss of funding could also affect the Wellness Certification that the Fayetteville Senior Activity and Wellness Center has received from the Division of Aging and Adult Services. In order to keep this certification, the center must pass an assessment yearly. The assessment is used to determine if the center is offering consistent programming in all seven dimensions of wellness. A reduction of funding would result in programs and activities being cancelled that are essential to this certification.

TERMS AND CONDITIONS

This application does not commit or guarantee receiving public funds. The purpose of completing this form is for budgetary purposes only. If City Council approves a budget containing funding for this request, your organization agrees to abide by the terms and conditions listed below.

1. A contract for services must be negotiated and approved by your organization and the City prior to any disbursements of public funds.
2. Your organization agrees to provide the City of Fayetteville with an annual audit or an annual compilation and review prepared by a licensed certified public accountant within six months of the fiscal year end or the completion of the project;

OR

3. Your organization agrees to provide an annual Balance Sheet and a Statement of Revenues and Expenses and, upon request by the City of Fayetteville, access to your organization's financial records by City auditors within six months of the fiscal year end or the completion of the project.

CERTIFICATIONS

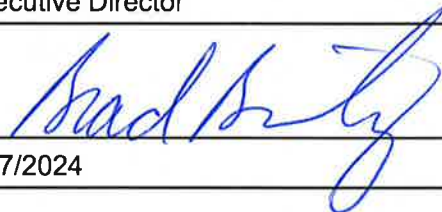
Applicant agrees to comply with all State and City purchasing policies and procedures (available from the City Purchasing Office).

Applicant certifies that the project will comply with all nondiscrimination statutes and will be fully handicapped accessible.

Name of Organization: Area Agency on Aging of Northwest Arkansas

Name of Applicant: Brad Bailey

Title of Applicant: Executive Director

Signature of Applicant: 

Date: 7/17/2024

Please note: Applications require a handwritten signature. You may submit the application electronically, by mail or hand delivery. To submit electronically, email packet to Budget_Research@fayetteville-ar.gov. To submit via mail, send to:

City of Fayetteville
ATTN: Budget & Information Management
113 West Mountain Street
Fayetteville, AR 72701



MEETING OF DECEMBER 17, 2024

TO: Mayor Jordan and City Council
THRU: Susan Norton, Chief of Staff
FROM:
SUBJECT: **Budget Adjustment for Purchased Water Account**

RECOMMENDATION:

Staff recommends approval of a budget adjustment in the amount of \$1,326,000.00 in the Purchased Water account due to increased water usage, which is purchased from Beaver Water District.

BACKGROUND:

At the beginning of each budget cycle, the Utilities Department calculates the amount of money needed to purchase water from Beaver Water District for the entire year. This is accomplished by looking into the water usage history of the City in the previous year or years, and make some changes based on growth, climate and non-revenue water loss.

DISCUSSION:

The amount of water purchased by the end of September 2024 is up by 17% compared to water purchased by the end of September 2023. This increase in water usage is due to several factors but most notably is due to increases in the cost of water above what was originally budgeted, and water loss due to leaks. The cost of water increased by 8.5% in the latter part of 2024 rather than the customary 3% as it has been in the past. Additionally, the number of leaks in the City's water distribution system have remained high at the end of September 2024 and is comparable to what was seen at the end of September 2023.

BUDGET/STAFF IMPACT:

The funds for this Budget Adjustment (\$1,326,000.00) will be withdrawn from the Utility's fund balance.

ATTACHMENTS: SRF (#3), BA (#4), 2024 Beaver Water Purchased Water Projections (#5)



City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8323

Legislation Text

File #: 2024-0771

Budget Adjustment for Purchased Water Account

A RESOLUTION TO APPROVE A BUDGET ADJUSTMENT IN THE AMOUNT OF \$1,326,000.00 FOR THE PURCHASED WATER ACCOUNT DUE TO INCREASED WATER USAGE

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment, a copy of which is attached to this Resolution, in the amount of \$1,326,000.00 for the purchased water account due to increased water usage.

City of Fayetteville Staff Review Form

2024-771

Item ID

12/4/2024

City Council Meeting Date - Agenda Item Only
N/A for Non-Agenda Item

Tim Nyander

12/4/2024

UTILITIES DIRECTOR (700)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Staff recommends approval of a budget adjustment in the amount of \$1,326,000.00 in the Purchased Water account due to increased water usage, which is purchased from Beaver Water District.

Budget Impact:

5400.720.3800-5312.00

Water & Sewer

Account Number

Fund

Project Number

Project Title

Budgeted Item? Yes

Total Amended Budget

\$ 13,000,000.00

Expenses (Actual+Encum)

\$ 11,857,105.00

Available Budget

\$ 1,142,895.00

Does item have a direct cost? No

Item Cost

\$ -

Is a Budget Adjustment attached? Yes

Budget Adjustment

\$ 1,326,000.00

Remaining Budget

\$ 2,468,895.00

V20221130

Purchase Order Number:

Previous Ordinance or Resolution #

Change Order Number:

Approval Date:

Original Contract Number:

Comments:

Budget Year	Division	Adjustment Number
2024	UTILITIES DIRECTOR (700)	
	Requestor: Tim Nyander	

Staff recommends approval of a budget adjustment in the amount of \$1,326,000.00 in the Purchased Water account due to increased water usage, which is purchased from Beaver Water District.

	COUNCIL DATE:	12/4/2024
	ITEM ID#:	2024-771
	Kevin Springer	
	11/14/2024 5:49 PM	
	Budget Division	Date
	TYPE:	D - (City Council)
	JOURNAL #:	
GLDATE:		
CHKD/POSTED:	/	
RESOLUTION/ORDINANCE		

[illegible]

2025 Budget Data - Projected Water Purchases

Indicates projected amounts

	2023				2024					
	Gallons	Rate	Expense	% Chg Gals	Gallons	Est %	Est	Rate	Expense	% Chg Gals
01 - January	596,398	\$1.46	870,741	5.34%	703,939			\$1.54	1,084,066	18.03%
02 - February	556,988	\$1.46	813,202	6.66%	639,070			\$1.54	984,168	14.74%
03 - March	578,527	\$1.46	844,649	4.82%	650,931			\$1.54	1,002,434	12.52%
04 - April	571,452	\$1.46	834,320	4.67%	659,872			\$1.54	1,016,203	15.47%
05 - May	625,768	\$1.46	913,621	5.28%	696,017			\$1.54	1,071,866	11.23%
06 - June	697,512	\$1.46	1,018,368	4.17%	790,507			\$1.54	1,217,381	13.33%
07 - July	785,904	\$1.46	1,147,420	-9.93%	845,333			\$1.54	1,301,813	7.56%
08 - August	860,955	\$1.46	1,256,994	9.94%	909,864			\$1.54	1,401,191	5.68%
09 - September	789,032	\$1.46	1,151,987	6.71%	858,244			\$1.54	1,321,696	8.77%
10 - October	726,212	\$1.54	1,118,366	4.68%	872,029			\$1.67	1,456,288	20.08%
11 - November	647,131	\$1.54	996,582	14.33%	744,300	15.00%	Est	\$1.67	1,243,000	15.02%
12 - December	637,920	\$1.54	982,397	8.08%	733,700	15.00%	Est	\$1.67	1,225,300	15.01%
TOTALS	8,073,799	\$1.48	11,948,648	4.92%	9,103,806			\$1.57	14,325,405	12.76%
YTD October	6,788,748		9,969,669		7,625,806				11,857,105	12.33%
BUDGET									13,000,000	
PROJECTED									14,326,000	
UNDER / (OVER)									(1,326,000)	



MEETING OF DECEMBER 17, 2024

TO: Mayor Jordan and City Council
THRU: Susan Norton, Chief of Staff
FROM: Keith Macedo, IT Director
SUBJECT: **Staff recommends approving a resolution waiving competitive bidding and approving an agreement with i3 Verticals LLC to provide citation payment processing for the Fayetteville District Court.**

RECOMMENDATION:

Staff recommends approving a resolution waiving competitive bidding and approving an agreement with i3 Verticals LLC to provide citation payment processing for the Fayetteville District Court.

BACKGROUND:

The District Court utilizes Virtual Justice software, provided by i3 Verticals, to support daily operations and currently utilizes eCourt Pay to process in-person and online citation payments. The city implemented eCourt Pay in 2020, via ordinance 6351, to provide in-person and online credit card citation payments due to eCourt Pay integration with Virtual Justice.

DISCUSSION:

Staff reviewed the new i3 Verticals payment system and recommend approval of the agreement to provide credit card citation payments for the Fayetteville District Court. After acquiring Virtual Justice, i3 Verticals began transitioning all customers to its proprietary payment system. Rogers and Springdale have already adopted the new system, with Siloam Springs transitioning soon. As i3 Verticals exclusively supports its payment system for integration with Virtual Justice, competitive bidding is impractical and infeasible, prompting a request to waive the City's bidding requirements.

BUDGET/STAFF IMPACT:

There is no direct cost to the City or Fayetteville District Court, all fees for the service will be paid by the customers.

ATTACHMENTS: SRF (#3), i3 Verticals LLC - Fayetteville Agreement (#4), i3 Verticals Letter (#5), Washington County-Fayetteville Sub-Merchant Agreement (#6)



City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8323

Legislation Text

File #: 2024-0899

Staff recommends approving a resolution waiving competitive bidding and approving an agreement with i3 Verticals LLC to provide citation payment processing for the Fayetteville District Court.

A RESOLUTION TO WAIVE COMPETITIVE BIDDING AND APPROVE AN AGREEMENT WITH i3 VERTICALS LLC TO PROVIDE CITATION PAYMENT PROCESSING FOR THE FAYETTEVILLE DISTRICT COURT

WHEREAS, the District Court utilizes Virtual Justice software, provided by i3 Verticals, to support daily operations and currently utilizes eCourt Pay to process in-person and online credit card citation payments; and

WHEREAS, after acquiring Virtual Justice, i3 Verticals began transitioning all customers to its proprietary payment system, the cost of which is paid by the customers making payments and not the City; and

WHEREAS, as i3 Verticals exclusively supports its payment system for integration with Virtual Justice, competitive bidding is impractical and infeasible.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby determines an exceptional situation exists in which competitive bidding is deemed not feasible or practical and therefore waives the requirements of formal competitive bidding and authorizes an agreement with i3 Verticals LLC to provide citation payment processing for the Fayetteville District Court.

City of Fayetteville Staff Review Form

2024-0899

Item ID

12/17/2024

City Council Meeting Date - Agenda Item Only
N/A for Non-Agenda Item

Keith Macedo

11/21/2024

INFORMATION TECHNOLOGY (170)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Staff recommends approving an ordinance waiving competitive bidding and approve an agreement with i3 Verticals LLC to provide citation payment processing for the Fayetteville District Court.

Budget Impact:

Account Number

Fund

Project Number

Project Title

Budgeted Item? No

Total Amended Budget

\$ -

Expenses (Actual+Encum)

\$ -

Available Budget

\$ -

Does item have a direct cost? No

Item Cost

\$ -

Is a Budget Adjustment attached? No

Budget Adjustment

\$ -

Remaining Budget

\$ -

V20221130

Purchase Order Number:

Previous Ordinance or Resolution # Ord 6351

Change Order Number:

Approval Date:

Original Contract Number:

Comments:



SERVICE AGREEMENT

THIS IS A LEGALLY BINDING AGREEMENT between i3 Verticals, LLC dba Court Solutions, a Delaware limited liability company ("i3"), and you ("Agreement"). BY SIGNING AN ORDER SHEET, SIGNING UP FOR AN ACCOUNT, OR BY ACCESSING OR USING THE SERVICES (DEFINED BELOW), YOU ARE ENTERING INTO THIS SERVICES AGREEMENT (THIS "**AGREEMENT**") AND YOU ("You" or "Client") AGREE TO BE BOUND BY ITS TERMS AND CONDITIONS. You and we are each individually referred to in this Agreement as a "**Party**," and collectively referred to as the "**Parties**."

WHEREAS, i3 is a provider of software and web-based services and a call-in support center ("**Services**") that enables certain users who have been granted remote access ("**Authorized Payment Users**") to make credit or debit card payments to utility companies, courts or other government agencies; and

WHEREAS, Client is a court, utility company or government agency that desires to utilize the Services to facilitate payments owed to Client ("**Payments**").

NOW THEREFORE, in consideration of the foregoing, the promises, mutual covenants and restrictions contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, i3 and Client agree as follows:

1. LICENSE. In consideration for payment by an Authorized Payment User to i3 of an applicable license or service fee, i3 grants to Client a non-exclusive, non-transferable License to access and use Services in accordance with the terms and conditions of this Agreement.

2. FEES. i3 will facilitate the payment of fines and fees from Authorized Payment Users to Client, and i3 will collect from Authorized Payment Users an applicable service fee connection with the Payment for its Services.

3. CLIENT RESPONSIBILITIES AND PERMITTED USE. Client is responsible for understanding the legal and regulatory requirements applicable to it and for selecting and using the Services and for procuring and using the Services in a manner that complies with the applicable legal and regulatory requirements. Court shall comply with all laws and regulations applicable to Client. Client permits i3 to disclose Client Data to third party for purposes of performing Services. i3 reserves the right to use one or more subcontractors to perform all or part of the Services (each a "**Subcontractor**") and to change Subcontractors from time to time without notice to Client. i3 agrees to share the name (or names) of subcontractors with Client upon written request. All subcontractors of i3 will be subject to terms and conditions that are consistent with i3's obligations under the Agreement. Client shall maintain in effect all the licenses, permissions, authorizations, consents and permits that it needs to carry out its obligations under this Agreement. In addition, Client shall implement commercially reasonable physical, administrative and technical controls, and security procedures and other safeguards that are reasonably necessary to prevent unauthorized access to and use of the Services. Client will promptly notify i3 of any unauthorized access and use of Client's account and is solely responsible for keeping its passwords and account information secret and for all acts that occur if it fails to do so. No rights, other than those expressly granted herein, in or to the Service are granted to Client. Client may not modify, copy (except for disaster recovery purposes), provide to any non-Affiliate third party (except for contractors), sell or transfer, the Service and any Service Content, in whole or in part. Client shall not decompile, disassemble, reverse engineer, or in any way derive source code from the Service or Service Content.

4. INTELLECTUAL PROPERTY RIGHTS OF I3. The IP Rights in and to the Services and Service Content are and shall remain the property of i3 and its licensors. "**IP Rights**" means all intellectual and industrial property rights of any kind whatsoever including patents, supplementary protection certificates, rights in know-how, trademarks,

designs, models, design rights, rights to prevent passing off or unfair competition and copyright (whether in drawings, plans, specifications, designs and computer software or otherwise), database rights, any rights in any invention, discovery or process, and applications for and rights to apply for any of the foregoing. "**Service Content**" means the computer code, operating instructions, graphics, designs, proprietary scripts, underlying technology, third party content, information and/or other material (whether in written, graphical, or other form) comprised in the Services.

5. INTELLECTUAL PROPERTY RIGHTS OF CLIENT. Client retains all rights, title and interest in and to any data, logos, trademarks, trade name, service marks, or any other graphics, designs or pictures input into the Service by Client, an Affiliate, their employees and contractors (or by i3 on their behalf), or incorporated as part of a Service (collectively, "**Client Data**").

6. CONFIDENTIALITY. The parties acknowledge that by reason of their relationship under this Agreement, they may receive or have access to (such party being a "**Recipient**") certain information and materials concerning the other party's (such party being a "**Discloser**") business, technology, and/or products (including the Services and all terms and conditions and pricing set forth in this Agreement) that is confidential and of substantial value to the other party, which value would be impaired if such information were disclosed to third parties ("**Confidential Information**"). Except as provided herein, the Recipient agrees that it will not use in any way for its own account or the account of any third party, nor disclose to any third party, any such Confidential Information, except as authorized under this Agreement, and will protect the confidentiality of such information with the same degree of care which it uses to protect its own confidential information, using no less than a reasonable degree of care. Such use and non-disclosure obligations shall not apply to information which (a) was already rightfully known to Recipient prior to the Discloser disclosing it; (b) is in or has entered the public domain through no breach of this Agreement or other wrongful act of Recipient; (c) has been rightfully received from a third party not under obligation of confidentiality; (d) has been approved for release by Discloser's written authorization; (e) is required to be disclosed by law; or (f) was independently developed by Recipient, as evidenced by documentation, without ref to or reliance on Discloser's Confidential Information. Upon request, Recipient shall promptly destroy all documents and information, however recorded, which contain Discloser's Confidential Information; provided that Recipient shall be

permitted to maintain one (1) copy in an encrypted archived computer system backup that was made in accordance with its corporate business continuity or disaster recovery procedures.

7.13 WARRANTIES. i3 warrants to Client that: (a) it will provide Services with reasonable skill and care; (b) it has full power and authority to enter into this Agreement; (c) the Services, when used in accordance with the terms and conditions of this Agreement, do not infringe the IP Rights of any third party; and (d) it will comply with all applicable laws and regulations in the performance of its obligations hereunder. i3 does **not** warrant that: (a) the Services provided pursuant to this Agreement will be uninterrupted or error free; or (b) that Client will obtain any specific results by using the Services. i3 **MAKES NO WARRANTY, GUARANTEE OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, REGARDING THE MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE SERVICES.**

8. CLIENT WARRANTIES. Client warrants that: (a) it has full power and authority to enter into this Agreement; (b) it will comply with all applicable laws and regulations in the performance of its obligations hereunder; (c) it is authorized under such laws to provide i3 with any personal data and has obtained any necessary consent or other requirements for i3 to process such personal data; (d) Client Data and materials provided to i3 by or on behalf of Client ("**Client Materials**"), do not infringe the IP Rights of any third party.

9. LIMITATION OF LIABILITY. Nothing in this Agreement shall operate to limit or exclude i3's liability for personal injury or death resulting from our negligence, for fraud and fraudulent misrepresentation, or for any matter for which it would be illegal for to exclude or to attempt to limit or exclude liability. In no event shall i3 be liable for any loss of profits, sales, business (in each case whether direct or indirect) or any indirect, special, exemplary, incidental, or consequential damages, or any claims or demands brought against Client, even if i3 has been advised of the possibility of such claims or demands. The aggregate liability of i3 to Client for all claims related to the Services and this Agreement, including any cause of action sounding in contract, tort, or strict liability, shall not exceed the fees paid by Authorized Payment Users to i3 in the twelve (12) months preceding the claim.

10. INDEMNIFICATION. i3 shall indemnify Client and its Affiliates, and their respective directors, officers, employees and agents for any and all claims, damages or liability whatsoever, including payment of reasonable attorneys' fees and costs, suffered or incurred by Client in connection with any claim that the Services infringe the IP Rights of any third party ("**IP Claim**"). This indemnity obligation is subject to Client promptly notifying i3 of any IP Claim, granting i3 the authority to defend, compromise or settle the claim, and providing i3 with any information relevant to such claim. i3 shall have no liability for any IP Claims that are based on (i) Client's modification of the Service where the same was not pre-authorized in writing by i3 or (ii) use of the Service in a manner not permitted by this Agreement. This Clause constitutes i3's entire obligation to Client with respect to any IP Claim. Client shall indemnify i3 and its Affiliates, and their respective directors, officers, employees and agents for any and all claims, damages or liability whatsoever, including payment of reasonable attorneys' fees and costs, suffered or incurred by i3 in connection with: (i) any claim that the Client Data and/or Client Materials infringe the IP Rights of any third party; and (ii) any claims or actions brought by third parties arising out of, or related to, Client's programs initiatives with regard to the payment of fines or fees owed to Client.

11. TERM AND TERMINATION. This Agreement shall commence on the Effective Date and shall continue in full force and effect for a period of one year (the "Initial Term") unless earlier terminated as set forth below. Upon the expiration of the Initial Term or any subsequent Renewal Term, this Agreement will renew for additional one-year periods (each a "Renewal Term"), and, together with the Initial Term, collectively the "Term" unless either party notifies the other party in writing of its intent not to renew this Agreement at least 60 days prior to the end of the Term.

12. TERMINATION CONSEQUENCES. On termination of the Agreement, all rights licenses and authorizations granted to Client hereunder will immediately terminate and Client shall: (i) immediately cease all use of and other activities related to the Services unless otherwise mutually agreed upon by the parties.

Notwithstanding the foregoing, upon termination of the Agreement, i3 will continue to process any existing payments that were submitted prior to the date of termination.

13. ENTIRE AGREEMENT. This Agreement (as amended or varied from time to time) embodies the entire understanding between i3 and Client with respect to the subject matter hereof and supersedes any and all prior understandings and agreements, oral or written, relating thereto. Under no circumstances will any preprinted, additional, or different terms or conditions in requests for proposals, requests for quotations, purchase orders or other business documents govern any Services, this Agreement. No use of trade or other regular practice or method of dealing between the parties shall be used to modify, interpret, supplement, or alter in any manner the terms of this Agreement.

14. NOTICES. Client's routine communications regarding the Licensed Software and Services as well as any legal notices to i3 relating to this Agreement and its terms should be sent by either first class United States Mail to: i3 Verticals, LLC, 40 Burton Hills Blvd., Suite 415, Nashville, TN 37215, Attn: Legal or by email to legal@i3verticals.com. i3 routine communications regarding the Services as well as any legal notices to Client will be sent to the individuals that Client designates as contacts on its account either by electronic mail, United States mail, or overnight courier. Notices are deemed received as of the time posted or delivered, or if that time does not fall within a Business Day, as of the beginning of the first Business Day following the time posted or delivered.

15. DISPUTE RESOLUTION AND GOVERNING LAW.

This Agreement is governed by and construed in accordance with the internal laws of the State of Arkansas without giving effect to any choice or conflict of law provision or rule that would require or permit the application of the laws of any jurisdiction other than those of the State of Arkansas. Any legal suit, action or proceeding arising out of or in any way related to this Agreement or the licenses granted hereunder shall be instituted exclusively in the federal courts of the United States or the courts of the State of Arkansas in each case located in the City of Fayetteville and County of Washington, and each party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action or proceeding. Service of process, summons, notice or other document by mail to such party's address set forth herein shall be effective service of process for any suit, action or other proceeding brought in any such court.

16. ASSIGNMENT. This Agreement may not be assigned or transferred by either party (by operation of law or otherwise) without the prior written consent of the other party; provided, however, that either party may, without the prior consent of the other, assign all of its rights under this Agreement to (i) an Affiliate, (ii) a purchaser of all or substantially all of its stock or assets, or (iii) a third party participating in a merger or other corporate reorganization in which the assigning party is a constituent corporation. This Agreement will be binding upon and inure to the benefit of the parties and their respective successors and permitted assigns.

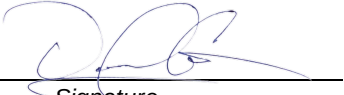
17. MISCELLANEOUS. i3 is an independent contractor and is not an employee, partner, joint author or joint venturer of Client or its Affiliates. The rights and remedies under this Agreement may not be enforced by anyone other than the parties hereto. The failure of a party to enforce any right or claim under, or provision of, this Agreement shall not be deemed to be a waiver of such right, claim, or provision. This Agreement may not be modified except by a writing signed by authorized representatives of both parties. If any provision of this Agreement is declared or found to be illegal, unenforceable or void, then both parties shall be relieved of all obligations arising under such provision, but only to the extent that such provision is illegal, unenforceable or void and does not relate to the payments to be made

to 13. If the remainder of this Agreement is not affected by such declaration or finding and is capable of substantial performance, then each provision not so affected shall be enforced to the extent permitted by law. Neither party shall be liable to the other for any delay or failure to perform due to acts of god or causes beyond its reasonable control. Performance times shall be considered extended for a period of time equivalent to the time lost because of any such delay. In this Agreement: (a) where an agreement or consent of a party is required, such agreement or consent shall not be unreasonably

withheld or delayed; and (b) words denoting the singular include the plural and vice versa.

18. COUNTERPARTS; SIGNATURES. This Agreement may be executed in counterparts, each of which shall be deemed to be an original instrument, but all such counterparts together shall constitute one and the same instrument. Facsimile or electronic transmissions of counterparts displaying facsimile or electronic, or electronically reproduced copies, of signatures shall be accepted and binding with the same force and effect as "wet signed" originals of the counterpart.

Client:
By: _____
 Signature
Name: Lioneld Jordan
Title: Mayor
Date: _____

i3:
By:  _____
 Signature
Name: David Graves
Title: EVP
Date: 11/14/2024



i3-MSI Consulting, LLC
641 Hwy 71 North, Suite 3, Alma, AR 72921

November 14, 2024

Washington Co. District Court - Fayetteville Dept.
176 South Church, Suite 1
Fayetteville, AR 72701

Ms. Stockalper,

This letter is a more detailed explanation concerning our Virtual Justice Case Management System interface with Court Solutions online payments moving forward.

Currently you are using eCourtPay for your online payments interface with VJ. All our courts in Arkansas, that are not already using Court Solutions, are being asked to switch. Court Solutions provides everything eCourtPay provides and more.

MSI & Court Solutions are both owned by i3 Verticals. MSI has worked with Court Solutions since 2009 and have 124 courts that are interfacing with Court Solutions for online payments. We will no longer be interfacing with any other online payment company except Court Solutions moving forward. It is our goal to have all of our courts migrated over to Court Solutions by the end of 2024.

Here are a few specific details:

- The rates for all online card payment companies are very similar and based on fees charged by the credit card companies. The base fee for Court Solutions is 11%. However, because MSI and Court Solutions are both owned by i3 Verticals, I'm able to offer reduced prices specifically for MSI courts.
 - Court Solutions rates for MSI Courts:
9.5% for payments made on the website and by phone.
4.7% for payments made at the court pay window using the Court Solutions clerk portal.
- If needed, Court Solutions will provide Credit Card readers, free of charge, for on-site payments.
- We will also be providing new features with Court Solutions moving forward that are specific to our partnership, including automated receipt posting from online payments instead of manual posting from email notifications.

Finally, because of any inconvenience in switching, MSI is offering to keep your VJ License Price the same in 2025 as it was in 2024. But rest assured, we will handle all the heavy lifting for you during the transition.

Sincerely,

Bryan D. Smith
i3-MSI Consulting



PAYMENT PROCESSING AGREEMENT FOR SUB-MERCHANTS

This Payment Processing Agreement for Sub-merchants ("Agreement") sets forth the terms and conditions that govern the services to be provided by i3 Verticals, LLC and its affiliates including WorldPay ("Provider", "us" or "we") to its registered sub-merchants ("Sub-merchant", or "you") which include electronic payment gateway and payment processing services provided by Provider and as an agent of WorldPay, LLC, 8500 Governors Hill Dr. Cincinnati, OH 45249 ("Processor") and Fifth Third Bank (as such bank may change from time to time, the "Member Bank") pursuant to a Payment Facilitator Merchant Agreement ("Processing Agreement"). Processor and Member Bank are collectively referred to as "Acquirer." Provider is required to enter into this Agreement with its customers, who are "Sub-merchants" for purposes of this Agreement and the Processing Agreement. Sub-merchant has registered to receive the Merchant Services more fully described at www.i3verticals.com/verticals/public-sector (the "Website").

Sub-merchant has submitted an Application, the terms of which are incorporated herein. By its acceptance of the Application, Provider agrees to provide Sub-merchant with certain payment processing services ("Services") in accordance with the terms of this Agreement to facilitate Sub-merchant's acceptance of credit and debit card payments for goods and services provided to Cardholders. In consideration of Sub-merchant's receipt of credit or debit card funded payments, and participation in programs affiliated with MasterCard International Inc. ("MasterCard"), VISA U.S.A. Inc. ("VISA"), Discover Financial Services, LLC ("Discover"), and Other Networks (defined below) (collectively, "Associations"), Sub-merchant is required to comply with the Operating Regulations (defined below) as they pertain to applicable credit and debit card payments.

Provider and Sub-merchant agree as follows:

1. **Definitions.** Unless otherwise defined above, all capitalized terms used in this Agreement shall have the meanings given to them herein or in Appendix A attached to this Agreement.
2. **The Services.** Provider is a payment Gateway and registered PSP and Payment Facilitator as provided for in the Operating Regulations. Pursuant to the Processing Agreement, Provider has arranged for Processor to acquire, process and settle payment for transactions initiated by Sub-merchant's Payors, by means of Instruction Based Funding. Such acquiring, processing, and settlement shall be made in accordance with the Operating Regulations using the channels set forth in the Application, which include: credit/debit card and EFT (electronic funds transfer) payments through the Website, (collectively "Payments"). Subject to processing delays and risk holds, Provider has made arrangements as a Payment Facilitator to cause Payments to be made to Sub-merchant. Processor will periodically transfer Payments to Sub-merchant's Bank Account based upon instructions provided by Provider via Instruction Based Funding ("Services" or "Merchant Services").
3. **Authorization.** You authorize us to perform underwriting and screening of your Application and acknowledge that we have ultimate discretion regarding our underwriting, risk and compliance decisions ("Underwriting Policies"), including any decision of whether to provide Services to you. Sub-merchant authorizes Provider to conduct checks of Sub-merchant's background, credit, or banking information, as necessary, and agrees that all information obtained under this Agreement may be shared with an Association. While assessing your Application, we may grant you preliminary access to the Services. We require a holding period before making an initial payment to you, which will not exceed three (3) business days. We reserve the right to suspend or terminate provision of Services to you at any time if we determine that your activities (a) violate our Underwriting Policies or this Agreement; (b) are listed on the Restricted Businesses List; or (c) otherwise reflect negatively on the brand or reputation of Provider, Processor or Member Bank. Sub-merchant hereby authorizes Provider to facilitate the debiting and crediting of the bank account described in its Application ("Bank Account"), for purposes of depositing Payments to Sub-merchant's Bank Account, debiting from Sub-merchant's Bank Account any chargebacks, refunds, or reversals, and debiting any fees or charges owed to Provider. Sub-merchant agrees to keep this bank information current with Provider at all times. Failure to do so may result in Payments being misdirected, withheld, or returned to its Payors. Provider shall in no event be liable for any damages directly or indirectly resulting from incorrect bank information you provide.
4. **Sub-merchant Responsibilities.**
 - 4.1. Sub-merchant agrees to execute a direct processing agreement with Processor, in the form of the Merchant Services Agreement for Sub-merchants provided by Processor, as a supplement to this Agreement, and will provide Provider with a copy of such agreement upon request. In the event that more than \$50,000,000 in Visa transactions and/or \$50,000,000 in MasterCard transactions (or such other amount provided by the Operating Regulations) is processed through and on behalf of Sub-merchant in any 12-month period, Sub-merchant will automatically be deemed to have accepted, and will be bound by, the Merchant Services Agreement for Sub-merchants.
 - 4.2. Sub-merchant will permit Provider to perform risk monitoring functions as required by the Operating Regulations and Rules Summary.
 - 4.3. Sub-merchant will notify Provider immediately of any Payor disputes or other matters that require

escalation to Processor and immediately forward any notices received by Sub-merchant concerning a disputed payment transaction.

4.4. Sub-merchant will ensure that only sales transactions produced as the direct result of bona fide sales to Payors for such identified products and/or services are completed and delivered to Provider for processing.

4.5. Sub-merchant will restrict access to ID's and passwords to access the Services and will disclose such IDs and passwords to its employees and agents on an as-needed basis, only as necessary for the use of the Services.

4.6. Sub-merchant is solely responsible for the security of data residing on the servers owned, controlled or operated by Sub-merchant. Sub-merchant will comply with all state and federal laws, including without limitation laws regarding disclosure to customers on how and why personal information and financial information is collected and used. Sub-merchant agrees not to use, disclose, sell or disseminate any cardholder information obtained in a card transaction except for purposes of authorizing, completing and settling card transactions and resolving chargebacks, retrieval requests or similar issues involving card transactions. Sub-merchant acknowledges that neither Provider nor Processor shall be liable for any improperly processed transaction or illegal or fraudulent access to Sub-merchant's account, Sub-merchant's IDs and passwords, any end-user data or transaction data .

4.7 Sub-merchant acknowledges and agrees that it is responsible for its employees' actions, it will notify Provider of any third party that will have access to cardholder data, and it will immediately report all instances of a data breach to Provider immediately after it identifies an incident.

5. **Sub-merchant Prohibitions.** Sub-merchant acknowledges and agrees that the prohibited actions described below ("**Prohibited Actions**") are actions which may mislead, disadvantage, defraud or damage any, or all of, the following entities: (a) a Payor; (b) the issuing bank; (c) the settlement bank; (d) the Associations; (e) Provider; (f) Processor; or (f) the Member Bank. Sub-merchant agrees that it must take all available steps and precautions to prevent fraud, theft, or misappropriation of Payor data. Sub-merchant agrees that it will not take any of the following Prohibited Actions and it will not permit a third party under its control to take the actions described in this Section 5 in any situation where it has knowledge of such actions. Sub-merchant is deemed to be responsible for and to control the conduct of its employees, contractors, customers, and representatives and ensure their compliance with applicable laws and the Operating Regulations, including the ownership and use of Association Marks.

5.1. **Sale Transactions.** Sub-merchant will not submit any sales transaction to Processor: (a) that adds any surcharge to the transaction, except to the extent authorized by the Operating Regulations or Applicable Law; (b) that adds any tax to the transaction, unless Applicable Law expressly allows for the customer to impose a tax. Any tax amount, if allowed, must be included in the transaction amount and not collected separately; (c) that represents the refinancing or transfer of an existing Payor obligation that is deemed to be uncollectible or arises from the dishonor of a Payor's personal check or from the acceptance of a Card at a terminal that dispenses scrip; (d) that Sub-merchant knows or should have known to be fraudulent or not authorized by the Payor, or that it knows or should have known to be authorized by a customer colluding with Sub-merchant for a fraudulent purpose; (e) until after the services are performed, and/or Sub-merchant has completed the transaction, unless Sub-merchant has obtained Payor consent for a recurring transaction; (f) where a valid authorization was required but not obtained; (g) where multiple authorizations for amounts less than the total sale amount have been obtained; (h) which results in a disbursement of cash or cash equivalent to a Payor; (i) that establishes a maximum dollar sale transaction amount, except to the extent authorized by the Operating Regulations; (j) for any purposes related to pornography or any activity that is illegal in either the Sub-Merchant's or Provider's jurisdiction, including but not limited to money-laundering or financing of terrorist activities; (k) that was previously charged back to the Acquirer and subsequently returned to the Sub-merchant, irrespective of Cardholder approval; (l) that requests a Card Verification Value 2 ("CVV2") for a card-present transaction, nor retains or stores any portion of the magnetic-stripe data subsequent to the authorization of a sales transaction, nor any other data prohibited by the Operating Regulations and/or the Payment Facilitator Agreement between Processor and Provider, including CVV2.

5.2. **Minimum and Maximum Transaction Amounts.**

(a) A Sub-merchant may set a minimum transaction amount to accept a Card that provides access to a credit account, provided the minimum transaction amount does not (i) differentiate between Issuers, (ii) differentiate between Mastercard and another acceptance brand; and (iii) exceed USD 10 (or any higher amount established by the Federal Reserve by regulation).

(b) A Sub-merchant may set a maximum transaction amount to accept a Card that provides access to a credit account, under the following conditions: (i) the Sub-merchant is a department, agency or instrumentality of the U.S. Government, a corporation owned or controlled by the U.S. Government, or whose primary business is reflected by MCC 8220 (Colleges, Universities, Professional Schools, Junior Colleges), 8244 (Schools, Business and Secretarial) or 8249 (Schools, Trade and Vocational); and (ii) the maximum transaction amount does not differentiate between Issuers or between Mastercard and another acceptance brand.

5.3. **Refund Transactions.** Sub-merchant will not submit any refund transaction to Processor: (a) that does not correlate to an original sales transaction from the Payor; (b) that exceeds the amount shown as the total on the

original sale transaction; or (c) more than three (3) business days following either: (i) a regulatory requirement granting a Payor's right to a refund; or (ii) a non-disputed Payor request.

5.4. **Other Prohibited Activities.** Sub-merchant will not: (a) use any Payor data or other transaction data for any purpose not authorized by this Agreement; (b) disclose any Payor data or other transaction data to any entity except for necessary disclosures to affected Payors, and through Processor to affected Association entities (c) provide to Processor or Provider any inaccurate, incomplete, or misleading information; (d) fail to provide Provider with timely notification of events that have caused or could cause material changes in the Sub-merchant's ability to fulfill its obligations under this Agreement, including but not limited to (i) adverse changes in Sub-merchant's financial health; (ii) adverse changes in Sub-merchant's business conditions or environment; (iii) actions by governmental or non-governmental agencies; (e) transfer or attempt to transfer its financial liability by asking or requiring Payors to waive their dispute rights; (f) submit transactions on behalf of another entity that the Associations would consider a sub-ISO, Payment Service Provider (PSP), Provider, or any third party payment provider; (g) submit transactions for entities that do not have their principal places of business in the United States; (h) require a Cardholder to complete a postcard or similar device that includes the Cardholder's Account Number, Card expiration date, signature, or any other Card account data in plain view when mailed; (i) request or use an Account Number for any purpose other than as payment for its goods or services; (j) disburse funds in the form of travelers cheques, if the sole purpose is to allow the Cardholder to make a cash purchase of goods or services from the Sub-merchant; (k) disburse funds in the form of cash, unless (i) the Sub-merchant is participating in full compliance with a program supported by an Association for such cash disbursements or such disbursement is in the form of travelers cheque, TravelMoney cards, or foreign currency, in which case, the Transaction amount is limited to the value of the travelers cheques, TravelMoney cards, or foreign currency plus any commission or fee charged by the Sub-merchant or (ii) the Sub-merchant is participating in the Cash Back service; (l) deposit an electronic or paper record of a transaction (or a copy), generated at the point-of-transaction that does not result from an act between the Cardholder and the Sub-merchant; (m) interchange any transaction receipt for a transaction that was previously charged back to the Acquirer and subsequently returned to the Sub-merchant, irrespective of Cardholder approval.

6. **Parties to the Agreement; Entire Agreement.** This Agreement constitutes the agreement required by the Processing Agreement between Provider, as a Payment Facilitator under the Processing Agreement, and its sub-merchants. In addition, the Sub-merchant may be required under the Processing Agreement to enter into a direct processing agreement with Processor ("Direct Processing Agreement") if it processes transactions in excess of a certain dollar amount as required by the Operating Regulations. Provider and Sub-merchant acknowledge and agree that Processor and Member Bank are hereby made parties to this Agreement for that purpose, and each shall have the right to enforce against Sub-merchant all terms and conditions of this Agreement, and any future amendments or addenda to which they are a party, as set forth therein. This Agreement and the Direct Processing Agreement, if applicable, shall constitute the entire agreement between the parties concerning the subject matter hereof. This Agreement shall not be superseded or replaced by the Direct Processing Agreement. In the event of a conflict between the terms of this Agreement and the Direct Processing Agreement, the terms of the Direct Processing Agreement shall control.
7. **Breach Notifications; Investigations.** Sub-merchant will promptly notify Provider in the event Sub-merchant becomes aware of any unusual or suspicious activity regarding its customers or any alleged breach by Processor of this Agreement, which notice will specifically detail such alleged breach, within thirty (30) days of the date on which the alleged breach becomes known to Sub-merchant and will cooperate with Processor, Provider, Member Bank and the Associations, as applicable, in connection with any investigation thereof. Failure to provide notice shall be deemed an acceptance by Sub-merchant and a waiver of any and all rights to dispute such breach. Sub-merchant hereby authorizes Provider to assert any such claim against Processor on its behalf, and to take all steps deemed necessary or appropriate in connection with such claim.
8. **Representations and Warranties; Authorization.** Sub-merchant hereby represents and warrants that the execution, delivery and performance of this Agreement has been duly authorized by all necessary appropriate authorizing actions of Sub-merchant; that the execution, delivery and performance of this Agreement will not contravene any applicable by-law, corporate charter, partnership or joint venture agreement, law, regulation, order or judgment involving Sub-merchant; that the execution, delivery and performance of the Agreement will not contravene any provision or constitute a default under any other agreement, license or contract which Sub-merchant is bound; that the Agreement is valid and enforceable in accordance with its terms against Sub-merchant as if each Sub-merchant had signed the Agreement; and that Sub-merchant will be bound by any amendments and modifications to the Agreement agreed to by Provider and Sub-merchant.

9. **Data Security and Privacy.** Sub-merchant agrees to comply, and to cause third parties acting as Sub-merchant's agent ("Agents") to comply, with the Operating Regulations, the Payment Card Industry Data Security Standards ("PCI-DSS"), the VISA Cardholder Information Security Program ("CISP"), the MasterCard Site Data Protection Program ("SDP"), and (where applicable), the PCI Security Standards Council, Visa, and MasterCard PA-DSS ("Payment Application Data Security Standards") (collectively, the "Security Guidelines"). Sub-merchant may review the VISA, MasterCard, American Express and Discover websites for a copy of the Visa, MasterCard and Discover regulations. The websites are: <http://usa.visa.com/customers/> and <http://www.mastercard.com/us/Sub-merchant/> and <http://www.americanexpress.com/merchantopguide> and <http://www.discovernetwork.com/customers/>. Sub-merchant will comply with the Card acceptance and website requirements set forth in the Operating Regulations. Without limiting the foregoing, Sub-merchant agrees that it will fully comply with any and all anti-money laundering laws and regulations, including but not limited to the Bank Secrecy Act, the US Treasury's Office of foreign Assets control ("OFAC") and the Federal Trade Commission. For purposes of this section, Agents include, but are not limited to, Sub-merchant's software providers and/or equipment providers. Sub-merchant represents to Provider that it does not have access to Card information (such as the Cardholder's account number, expiration date, and CVV2) and will not request access to such Card information from Provider. In the event that Sub-merchant receives such Card or other personal information of its customers in connection with the processing services provided under this Agreement, Sub-merchant agrees that it will not use it for any fraudulent purpose or in violation of any Card Organization Rules, including but not limited to PCI-DSS or Applicable Laws. If at any time Sub-merchant believes that customer personal information has been compromised, Sub-merchant must notify us promptly and assist in providing notification to the proper parties. Sub-merchant must ensure compliance by itself, and any third-party service provider utilized by Sub-merchant, with all security standards and guidelines that are applicable to Sub-merchant and published from time to time. Provider will not be responsible for unauthorized use or access to customer's personal information or financial data by Sub-merchant, Sub-merchant's employees, or any other party associated with Sub-merchant, except to the extent such use or access is due to Provider's fault or negligence. If any Card Organization requires an audit of Sub-merchant due to a data security compromise event or suspected event, Sub-merchant agrees to cooperate with such audit. Sub-merchant may not use any Card information other than for the sole purpose of completing the transaction authorized by the customer for which the information was provided to Sub-merchant, or as specifically allowed by Card Organization Rules, Operating Regulations, or as required by law. Provider may use any and all information gathered in the performance of the Services in accordance with its privacy policy found at www.i3verticals.com/PrivacyPolicy ("Privacy Policy"). In addition, Sub-merchant agrees that Provider may use such information for any lawful purpose and in accordance with its Privacy Policy.
10. **Modification of this Agreement or the Services.** Provider may from time to time without prior notice amend or modify this Agreement or the Services, including without limitation a change to the pricing, terms or products offered; provided, however, that Provider will not modify the Services in a manner that would, in its sole discretion, significantly adversely affect Sub-merchant's use thereof, without providing at least ten days' prior notice to Sub-merchant of any such modification. Such notice may be made by means of email. Sub-merchant's continued use of the Services following notification of any change or amendment to this Agreement or the Services shall be evidence of its consent and agreement to the modification and/or amendment.
11. **Fees.** Payors making online payments to Sub-merchant utilizing the Services hereunder may be required to pay fees in order to make such online Payments, if provided for in the Application for the Services. Sub-merchant is responsible for disclosing all Payor-paid fees to Payors. Provider may grant or deny to Payors the ability to use the Provider Services for any reason in its sole discretion. Provider reserves the right to modify and amend all fees payable for the Services upon ten days' notice to Sub-merchant.
12. **Termination.**
 - 12.1. Either party may terminate this agreement by providing written notice with the termination date no less than thirty (30) days prior to the termination date.
 - 12.2. Provider may immediately cease providing Services and/or terminate this Agreement without notice if: (i) Sub-merchant fails to pay any amount to Provider or Processor when due, (ii) Provider has received a request from Processor, Member Bank, or the Associations to terminate this Agreement; (iii) Provider believes that the provision of a service to Sub-merchant may be a violation of the Operating Regulations or any Applicable Laws; (iv) Provider believes that Sub-merchant has violated or is likely to violate the Operating Regulations or Applicable Law; (v) Provider determines that Sub-merchant poses a financial or regulatory risk to Provider or an Association, (vi) the Processing Agreement is terminated for any reason; (vii) any Association deregisters Provider; (viii) Processor or Member Bank ceases to be a member of or to participate in programs affiliated with the Associations that permit them to offer the Services; (ix) Provider fails to have the required licenses or registrations, or is the subject of any regulatory enforcement action in connection with any Applicable Law.

13. **Miscellaneous.** Provider may amend this Agreement upon notice to Sub-merchant in accordance with Provider's standard operating procedures. This Agreement is entered into, governed by, and construed pursuant to the laws of the State of Sub-merchant's domicile without regard to conflicts of law provisions. This Agreement may not be assigned by Sub-merchant without the prior written consent of Provider and may not be assigned by Provider without the prior written consent of Sub-merchant. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors, transferees and assignees. This Agreement is for the benefit of, and may be enforced only by Provider and Sub-merchant and is not for the benefit of, and may not be enforced by, any other party except the Associations as set forth in Attachment A. If any provision of this Agreement is determined to be illegal or invalid, such illegality or invalidity of that provision will not affect any of the remaining provisions and this Agreement and will be construed as if such provision is not contained in the Agreement. "Member Bank" as used in this Agreement shall mean a member of VISA, MasterCard and/or Discover, as applicable, that provides sponsorship services in connection with this Agreement. As of the commencement of this Agreement, Member Bank shall be Fifth Third Bank, an Ohio banking corporation, located in Cincinnati, Ohio. The Member Bank may be changed, and its rights and obligations assigned to another party by Processor at any time without notice to Provider or Sub-merchant.

By signing below, I indicate that I am authorized by the Sub-merchant to execute this Agreement and any other documentation required for the Merchant Services

Sub-merchant:

By: _____
Signature
 Name: Lioneld Jordan
 Title: Mayor
 Date: _____

i3: 
 By: _____
Signature Dave Graves
 Name: _____
 Title: EVP
 Date: 12/05/2024

ATTACHMENT A PAYMENT PROCESSING

A. Sub-merchant agrees that it will take all steps necessary to assist Provider in complying with its obligations under the Operating Regulations and Applicable Laws related to the settlement of sales transactions, including but not limited to filing of quarterly or other reports required under the Operating Regulations and the payment of assessments, chargebacks and fees in connection with transactions processed under this Agreement.

The Associations make excerpts of their Operating Regulations available online, including via:

<https://www.mastercard.us/en-us/business/overview/support/rules.html>;

<https://usa.visa.com/support/consumer/visa-rules.html>

<https://www.americanexpress.com/merchantopguide>

https://www.discoverglobalnetwork.com/content/dam/discover/en_us/dgn/pdfs/MIT-Implementation-Guide.pdf

Each applicable Association's complete Operating Regulations are incorporated by reference into this Agreement and will control with respect to any conflict in terms between this Agreement and such Operating Regulations. Sub-merchant will not discriminate against Cards or Issuers (e.g., limited acceptance options) except in full compliance with the Operating Regulations and will comply with all Operating Regulations, applicable laws, and regulations related to its business operations, PCI-DSS obligations, the use of an Association's marks, and each transaction acquired hereunder. Sub-merchant expressly agrees that it will accept Cards and protect, utilize, or restrict transaction data, including the magnetic stripe and CVV2, in accordance with the terms of this Agreement, applicable law or regulation, and the Operating Regulations and will cooperate with any audit requested by an Association until such audit is completed.

In addition to complying with each Association's obligations or prohibitions related to acceptance, disbursement, or resubmission of a transaction, Sub-merchant may not submit any illegal, fraudulent, or unauthorized transaction and shall only submit transactions for the sale of its own goods or services, and not any other person or company, and may not receive payment on behalf of or, unless authorized by law, redirect payments to any other party. Sub-merchant covenants that it is not a third-party beneficiary under any agreement with an Association, however, an Association may be a third-party beneficiary of this Agreement and shall have the rights, but not any obligation, necessary to fully enforce the terms of this Agreement against the Sub-merchant.

B. Sub-merchant will establish and maintain its Bank Account with a financial institution to credit the payments and fees Sub-merchant charges its customers. Sub-merchant authorizes Processor and Member Bank to initiate and make transfers to and from the Bank Account to affect the transactions contemplated by this Agreement ("Payments"). Any deficit in the Bank Account owing shall be paid by Sub-merchant into the Bank Account or directly to Provider to cover any deficit. Sub-merchant agrees to reimburse Provider, on demand, for any losses incurred as a result of insufficient funds in the Bank Account. Sub-merchant and Provider will mutually agree upon the provision of reporting and exchange of data as may be required by Provider to monitor and manage the activity relative to the Bank Account including any transfers to and from the Bank Account.

C. Each time Sub-merchant transmits any ACH entry ("Entry") to Processor or Member Bank, Sub-merchant represents and warrants to Processor and Member Bank that:

- (1) The Originator has authorized Sub-merchant to transmit Entries to Processor and Member Bank on behalf of Sub-merchant, in a manner that complies with the NACHA Operating Regulations, for processing and transmittal by Processor and Member Bank through the ACH system, which authorization has not been terminated and is in full force and effect, and Sub-merchant has agreed to make payment for any credit Entries originated and for any debit Entries returned by the receiving depository financial institution "RDFI";
- (2) Sub-merchant agrees to be bound by the NACHA Operating Regulations and to not initiate transactions in violation of United States law, and agrees to assume the responsibilities and perform the obligations of an Originator under the NACHA Operating Regulations;
- (3) Each Receiver of an Entry has authorized, in a manner that complies with the requirements of the Operating Regulations, Sub-merchant, or an agent of Sub-merchant, to initiate the Entry, and no such authorization has been revoked;
- (4) Sub-merchant has no knowledge of the revocation of the Receiver's authorization or the termination of the agreement between the RDFI and the Receiver concerning the Entry; and
- (5) The Entry accurately reflects the entry data furnished to Sub-merchant and does not violate any agreement between Originator and Sub-merchant.

D. In the event the Sub-merchant accepts American Express, Sub-merchant agrees:

- (1) To comply with, and accept Cards in accordance with, the terms of this Agreement and the American Express Merchant Operating Guide, as such terms may be amended from time to time.

- (2) That the American Express Merchant Operating Guide is incorporated by reference into the Provider Merchant Agreement. (available here: https://icm.aexp-static.com/content/dam/gms/en_us/optblue/us-mog.pdf). Sub-merchant expressly authorizes Payment Facilitator to submit transactions to, and receive settlement from, American Express on behalf of the Sub-merchant.
- (3) That the American Express disclosures and consents necessary for (i) Provider to collect and disclose Transaction Data, Sub-merchant Data, and other information about the Sub-merchant to American Express; and (ii) American Express to use such information to perform its responsibilities in connection with the electronic payment processing services provided by American Express ("Program"), promote the American Express Network, perform analytics and create reports, and for any other lawful business purposes, including commercial marketing communication purposes within the parameters of the Program, and important transactional or relationship communications from American Express.
- (4) To provide a marketing opt-out mechanism for Sub-merchants. Such mechanism should contain a clear disclosure to Sub-merchant that opting-out of marketing messages will not preclude them from receiving important transactional or relationship communications from American Express.
- (5) It may be converted from the Program to a direct Card acceptance relationship with American Express if and when it becomes a High CV Merchant in accordance with Section 10.5, "High CV Merchant Conversions."
- (6) That, upon conversion, (i) the Sub-merchant will be bound by American Express' then-current Card Acceptance Agreement; and (ii) American Express will set pricing and other fees payable by the Sub-merchant for Card acceptance.
- (7) It shall not assign to any third party any payments due to it under their respective Provider Merchant Agreement, and all indebtedness arising from Charges will be for bona fide sales of goods and services (or both) at its Establishments and free of liens, claims, and encumbrances other than ordinary sales taxes; provided, however, that the Sub-merchant may sell and assign future Transaction receivables to payment facilitator, its affiliated entities and/ or any other cash advance funding source that partners with payment facilitator or its affiliated entities, without consent of American Express.
- (8) American Express is an intended third-party beneficiary of the rights, but not obligations, of the Provider Merchant Agreement and that American Express may directly enforce the terms of the Provider Merchant Agreement against the Sub-merchant.
- (9) Sub-merchant may opt out of accepting Cards at any time without directly or indirectly affecting its rights to accept Other Payment Products.
- (10) Provider has the right to terminate the Sub-merchant's right to accept Cards if it breaches any of the provisions in this Section or the American Express Merchant Operating Guide.
- (11) Provider has the right to immediately terminate a Sub-merchant for cause or fraudulent or other activity, or upon American Express' request.
- (12) To maintain refund policies for purchases on the Card that are at least as favorable as its refund policy for purchases on any methods of payment, and the refund policy must be disclosed to Payors at the time of purchase and in compliance with Applicable Law.

- NOTE: American Express may use the information obtained in the Sub-merchant application at the time of setup to screen, communicate, and/or monitor Sub-merchant in connection with Card marketing and administrative purposes.

APPENDIX A DEFINITIONS

As used in this Agreement, the following terms mean as follows:

“Application” means the application for the Services, Credit Card Processing Form, or other documentation required by Provider and completed and delivered by Sub-merchant as a prerequisite for participating in the Services.

“Applicable Laws” shall mean all applicable state, federal, and local laws, rules and regulations, including without limitation, the Bank Secrecy Act, the implementing regulations issued by the U.S. Treasury’s Office of Foreign Assets Control (OFAC) and the Federal Trade Commission, as well as any and all other federal and state anti-money laundering laws and regulations.

“Association Marks” means Card Organization’s trademarks, service marks, or other logos.

“Sub-merchant’s Bank” shall mean the bank that provides the Bank Account.

“Bank Account” or “Account” shall mean the Sub-merchant’s deposit account (also known as a Demand Deposit Account, DDA or checking account) at a bank or other financial institution and identified in its Application or other documentation provided to Provider to set up the Services.

“Cardholder” shall mean any person authorized to use a Card or the accounts established in connection with a Card.

“Cards” shall mean MasterCard, VISA, Discover and Other Network cards, account numbers assigned to a Cardholder or other forms of payment accepted by Processor, for which pricing is set forth in the account opening documentation.

“Card Organization” means MasterCard, VISA, Discover and Other Network cards, account numbers assigned to a Cardholder or other forms of payment accepted by Processor, for which pricing is set forth in the account opening documentation.

“Card Organization Rules” means the rules, regulations, releases, interpretations and other requirements (whether contractual or otherwise) imposed or adopted by any Card Organization and related authorities, including without limitation, those of the PCI Security Standards Council, LLC and the National Automated Clearing House Association.

“Charge” means a payment or purchase made on a Card by a Cardholder.

“Force Majeure Event” shall mean errors in data provided by Sub-merchant or others, labor disputes, fire, weather or other casualty, power outages, and funding delays, however caused, governmental orders or regulations, or any other cause, whether similar or dissimilar to the foregoing, beyond Processor’s, Member Bank’s, or Provider’s reasonable control.

“Gateway Services” means the delivery of payment transaction authorization and settlement data to and from Merchants and transaction processors, and related services provided by Reseller.

“Instruction Based Funding” shall mean the process for funding Sub-merchant’s transactions, including the funding rules provided electronically by Provider to Processor that control timing and that instruct Provider how to distribute funds to Sub-merchant, including retention and disbursement of fees if applicable, as set forth in this Agreement and the Application.

“Issuer” means any entity, including Visa, Mastercard and American Express, licensed to issue Cards and to engage in the Card issuing business.

“Operating Regulations” shall mean the by-laws, operating regulations and/or all other rules, guidelines, policies and procedures of VISA, MasterCard, Discover, and/or Other Networks, and all other applicable rules, regulations and requirements of Processor, Member Bank, Provider, banks, institutions, organizations, associations, or networks which govern or affect any services provided under this Agreement, and all state and federal laws, rules and regulations which govern or otherwise affect the activities of Provider, including, but not limited to, those of the National Automated Clearing House Association (“NACHA”) and the Federal Trade Commission (“FTC”), as any or all of the foregoing may be amended and in effect from time to time.

“Originator” means the entity or company that agrees to initiate ACH entries into the payment system according to an arrangement with a Receiver. The Originator is usually a company directing a transfer of funds to or from a consumer or another company’s account.

“Other Network” shall mean any funds transfer network, including without limitation the network operated by NACHA, or card association other than VISA, MasterCard, or Discover that is identified in this Agreement or any subsequent amendment to this Agreement and in which Provider participates pursuant to the Processing Agreement.

“Payments” shall mean payments initiated by Payors using a Card or by means of ACH transfer.

“Payment Facilitator” shall have the meaning given that term in the Operating Regulations.

“Receiver” means the intended recipient of an ACH transaction.

“Transaction Data” Typical data elements include; merchant identifiers, method of entry, transaction total, card number, card expiry date, card CVV code, billing zip code, currency code, plus a few others. For multi-factor authenticated transactions (i.e. PIN Debit), the consumer’s PIN is passed in a securely encrypted field. For EMV transactions there are additional data elements passed which include a unique identifier for each transaction to validate the card is not counterfeit.

“Payment Processing” shall mean the process for funding Sub-merchant’s customer’s sales transactions, as more fully described in Attachment A.

“Payor” shall mean any customer of Sub-merchant who authorizes a payment to Sub-merchant, or who authorizes Sub-merchant to initiate a payment to the credit of Sub-merchant’s account, and for purposes hereof, “Payor” shall include a Cardholder.

“PSP” shall mean Payment Service Provider, as defined in the Operating Regulations.

“Rules Summary” shall mean the Processor’s Bank Card Sub-merchant Rules and Regulations, as amended from time to time, which are at all times consistent with the Operating Regulations.



MEETING OF DECEMBER 17, 2024

TO: Mayor Jordan and City Council
THRU: Paul Becker, Chief Financial Officer
FROM: Waylon Abernathy, Bond Projects & Construction Dir
SUBJECT: **Change Order #1 to Bid 23-47 Construction Contract with JBZ Inc., dba Ellingson Contracting for Porter Warehouse Stabilization.**

RECOMMENDATION:

Approval of Change Order #1 to Bid 23-47 Construction Contract with JBZ Inc. for Porter Warehouse Stabilization in the amount of \$178,526.13. Contingent on approval of 2025 Capital Budget.

BACKGROUND:

2019, Revial Architecture provided a building condition assessment, historical report, and temporary stabilization drawings.

2020, Placed on the Historical Register.

2023 Revival Architectural Contract for Bid Documents and Construction Administration

2024 Resolution 70-24 Authorized a construction contract for the stabilization.

DISCUSSION:

There was concern of the weight associated with the many number of layers of roofing, and the current metal had signs of leaking. It was determined that with this investment, it was best to replace the roof system with TPO, and R-38 ISO insulation to meet the current code.

Research shows that originally, there was a platform for loading rail cars. The new entry platform will mimic that.

Rotten decking was replaced, along with additional framing, and added columns @ footings to take some weight off of the exterior walls.

BUDGET/STAFF IMPACT:

Funding for the Change Order will be from 2024 Sales Tax Capital Improvements 4470.090.8900-5400.00 Porter Warehouse Stabilization Project, contingency funds, and 2025 Sales Tax Capital Improvements. This change is contingent on approval 2025 capital. Budget.

ATTACHMENTS: SRF (#3), Prime Change Order #1 - Signed (#4)



City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8323

Legislation Text

File #: 2024-0901

Change Order #1 to Bid 23-47 Construction Contract with JBZ Inc., dba Ellingson Contracting for Porter Warehouse Stabilization.

A RESOLUTION TO APPROVE CHANGE ORDER #1 TO THE CONTRACT WITH JBZ INC. D/B/A ELLINGSON CONTRACTING IN THE AMOUNT OF \$178,526.13 FOR THE PORTER WAREHOUSE STABILIZATION PROJECT

WHEREAS, on May 7, 2019, the City Council approved Resolution 116-19 authorizing a contract with Revival Architecture, Inc. for a building conditions assessment, historical report and temporary stabilization drawings for the Porter Warehouse Stabilization Project; and

WHEREAS, on February 20, 2024, City Council approved Resolution 70-24 authorizing a construction contract with JBZ Inc. d/b/a Ellingson Contracting for the stabilization project; and

WHEREAS, Change Order #1 authorizes additional work on the project, including the construction of a new roof, interior framing improvements, roof decking replacement, increased insulation thickness, and new entry deck, stairs, and railing.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves Change Order #1 to the contract with JBZ Inc. d/b/a Ellingson Contracting in the amount of \$178,526.13 for the Porter Warehouse Stabilization Project, contingent upon approval of the 2025 Capital Budget.

City of Fayetteville Staff Review Form

2024-901

Item ID

12/17/2024

City Council Meeting Date - Agenda Item Only
N/A for Non-Agenda Item

Wade Abernathy

11/25/2024

FACILITIES MANAGEMENT (140)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Approval of Change Order #2 Bid 23-47 Construction Contract with JBZ Inc. dba Ellingson in the amount of \$178,526.13 for the stabilization of the Porter warehouse, contingent on approval of 2025 capital budget.

Budget Impact:

4470.090.8900-5400.00

Building Grounds and Maintenance

Account Number

Fund

20001.1

Porter Warehouse Stabilization

Project Number

Project Title

Budgeted Item? Yes

Total Amended Budget

\$ 985,600.00

Expenses (Actual+Encum)

\$ 779,196.00

Available Budget

\$ 206,404.00

Does item have a direct cost? Yes

Item Cost

\$ 178,526.13

Is a Budget Adjustment attached? No

Budget Adjustment

\$ -

Remaining Budget

\$ 27,877.87

V20221130

Purchase Order Number: 2024-638

Previous Ordinance or Resolution # 70-24

Change Order Number: 1

Approval Date: 2/20/2024

Original Contract Number: 2024-14

Comments: Total amended budget amount includes \$150,000 in the 2025 budget.



Ellingson Contracting
PO Box 7202
Siloam Springs, AR 72761

Porter Warehouse | Prime Change Order #1

Date: 11/25/2024

To: Wade Abernathy
City of Fayetteville

Re: Porter Warehouse Stabilization
406 W Spring St
Fayetteville, AR 72701

Description of Proposed Change:

Increase contract value by \$178,526.13 for the following additional work:

- Provide new roof
- Provide interior framing improvements
- Provide roof decking replacement
- Provide increased insulation thickness to achieve R-38
- Provide new entry deck, stairs, and railing
- Provide (2) new columns and footings on West end of building
- Extended general conditions for added work (2mo)

Line Item Breakout

Description	Material	Labor	Equipment	Sub/Other	Total
PCO-01 - New Roof				\$ 74,508.00	\$ 74,508.00
PCO-01 - Framing Improvements				\$ 29,750.00	\$ 29,750.00
PCO-01 - Roof Decking Replacement				\$ 2,536.00	\$ 2,536.00
PCO-02 - R-38 Insulation				\$ 11,177.95	\$ 11,177.95
PCO-05 - Entry Deck				\$ 18,344.69	\$ 18,344.69
PCO-07 - Columns & Footings				\$ 2,425.86	\$ 2,425.86
PCO-12 - Extended GCs (2mo)				\$ 39,783.63	\$ 39,783.63
					\$ -
					\$ -
Subtotal	\$ -	\$ -	\$ -		\$ 178,526.13
Previous Contract Value					\$ 733,746.00
Lump Sum Total with Proposed Revisions					\$ 912,272.13

Time Extension Requested: 63 Days

New Contract Completion Date: 2/17/2025

If you have any questions please feel free to contact me.

Sincerely,

Acceptance of Change

Nathan Greathouse
Digitally signed by Nathan Greathouse
DN: cn=Nathan Greathouse, email=Nathan.Greathouse@ellingsoncontracting.com,
ou=Ellingson Contracting, c=United States
Date: 2024.11.25 08:26:51 -0800

Name _____

Nathan Greathouse
Ellingson Contracting
Project Manager

Signature _____

Date _____



MEETING OF DECEMBER 17, 2024

TO: Mayor Jordan and City Council

THRU: Susan Norton, Chief of Staff
Chris Brown, Public Works Director

FROM: Justin Clay, Parking Manager

SUBJECT: **A resolution approving a shared parking lease agreement with Central United Methodist Church for operation of the church parking deck as a revenue-producing parking facility.**

RECOMMENDATION:

Staff recommends approval of a shared parking lease agreement with Central United Methodist Church (CUMC) authorizing the City to operate the CUMC parking deck located at 61 W. Lafayette Street as a revenue-producing off-street parking facility. This parking deck contains 214 parking spaces.

BACKGROUND:

This agreement is the result of ongoing discussions between CUMC representatives and City staff about the prospect of City management of the CUMC parking deck located at 61 W. Lafayette Street. This agreement would authorize the City to institute a managed paid parking program and would allow for CUMC to generate revenue from their parking facility and for the City to share in the revenue. Currently, the parking deck is unregulated and open to the public throughout the week and is available only for church patrons on Sundays.

DISCUSSION:

The terms of this agreement authorize the City to operate and manage the CUMC parking deck Monday through Saturday for both transient (hourly or daily) and permit (monthly) parking using its existing parking management system. Parking revenue generated from hourly/daily and permit parking fees will be split 50/50 between the City and CUMC. The City will retain 100% of revenue for any citations issued. The City will be responsible for any and all parking equipment, systems, and associated signage. CUMC will be responsible for maintenance of the facility, any signage indicating when parking is available for church use only, and enforcement during Sundays and any other times when the facility is reserved for church use only.

Staff feels that this shared parking agreement serves the public interest as it creates a managed parking environment consistent with other City-managed parking facilities within the Entertainment District. Parking regulations and a consistent enforcement presence, coupled with nearby transit service, will make the CUMC deck an attractive option, particularly for daily parking and for monthly permit parking for tenants of nearby multi-housing units.

BUDGET/STAFF IMPACT:

Staff anticipates minimal staff impact as this location is within our existing parking district. The budget impact will be positive since no parking revenue is currently generated from the facility.

Mailing address:

113 W. Mountain Street
Fayetteville, AR 72701

www.fayetteville-ar.gov

ATTACHMENTS: SRF (#3), Limited License Agreement 2 (#4), CUMC Deck Mapped Location (#5)

Mailing address:

113 W. Mountain Street
Fayetteville, AR 72701

www.fayetteville-ar.gov



City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8323

Legislation Text

File #: 2024-0902

A resolution approving a shared parking lease agreement with Central United Methodist Church for operation of the church parking deck as a revenue-producing parking facility.

A RESOLUTION TO AUTHORIZE MAYOR JORDAN TO SIGN A LIMITED LICENSE AGREEMENT WITH CENTRAL UNITED METHODIST CHURCH FOR OPERATION OF THE CHURCH PARKING DECK AS A REVENUE-PRODUCING PARKING FACILITY

WHEREAS, Central United Methodist Church (CUMC) and City staff have discussed the prospect of City management of the CUMC parking deck located at 61 W. Lafayette Street that contains 214 parking spaces; and

WHEREAS, this agreement would authorize the City to institute a managed paid parking program that would allow for CUMC to generate revenue from its parking facility and for the City to share in the revenue; and

WHEREAS, currently, the parking deck is unregulated and open to the public throughout the week and is available only for church patrons on Sundays; and

WHEREAS, the terms of this agreement authorize the City to operate and manage the CUMC parking deck Monday through Saturday for both transient (hourly or daily) and permit (monthly) parking using its existing parking management system; and

WHEREAS, parking revenue generated from parking fees will be split evenly between the City and CUMC, while the City will retain 100% of revenue from any citations issued; and

WHEREAS, the City will be responsible for any and all parking equipment, systems, and associated signage; and

WHEREAS, CUMC will be responsible for maintenance of the facility, any signage indicating when parking is available for church use only, and enforcement during Sundays and any other times when the facility is reserved for church use only.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby authorizes Mayor Jordan to sign a limited license agreement with Central United Methodist Church for operation of the church

parking deck as a revenue-producing parking facility.

City of Fayetteville Staff Review Form

2024-902

Item ID

12/17/2024

City Council Meeting Date - Agenda Item Only
N/A for Non-Agenda Item

Justin Clay

11/26/2024

PARKING MANAGEMENT (430)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

A RESOLUTION TO AUTHORIZE MAYOR JORDAN TO SIGN A SHARED PARKING LEASE AGREEMENT WITH CENTRAL UNITED METHODIST CHURCH FOR OPERATION OF THE CHURCH PARKING DECK AS A REVENUE-PRODUCING PARKING FACILITY

Budget Impact:

Account Number

Fund

Project Number

Project Title

Budgeted Item? No

Total Amended Budget

\$ -

Expenses (Actual+Encum)

\$ -

Available Budget

\$ -

Does item have a direct cost? No

Item Cost

\$ -

Is a Budget Adjustment attached? No

Budget Adjustment

\$ -

Remaining Budget

\$ -

V20221130

Purchase Order Number:

Previous Ordinance or Resolution #

Change Order Number:

Approval Date:

Original Contract Number:

Comments:

LIMITED LICENSE AGREEMENT

BE IT KNOWN TO ALL:

That the City of Fayetteville, Arkansas (the "City") and Central United Methodist Church, Inc. of Fayetteville, Arkansas ("CUMC"), on this ___ day of November, 2024, hereby agree as follows:

1. CUMC hereby grants a limited license to the City, and the City hereby agrees to license from CUMC, for the usage and enforcement of the Central United Methodist Parking Deck (the "Parking Deck") at 61 West Lafayette Street, Fayetteville, Arkansas 72701. This Lease is a limited license and shall not be considered deeded access to the Parking Deck. CUMC's property is not to be subrogated by this Limited License.
2. The term of this Limited License shall be for an initial period of one (1) year from the date hereof. After such initial one (1) year period, this Limited License shall automatically renew on the anniversary of the date hereof for additional one (1) year periods up to a maximum of five (5) additional years.
3. The City hereby agrees that during the term of this Limited License the City shall operate the Parking Deck as a revenue producing off-street parking facility. The City agrees, at its sole expense, to equip the Parking Deck with the necessary parking system and to maintain such system (collectively, the "System Improvements"). The City also agrees to collect the parking revenues raised therefrom and to enforce the rules and regulations of the Parking Deck in a manner consistent with other city-managed parking facilities to insure that motorists parking thereon are in compliance with the applicable parking regulations as they are now, or as may hereafter, be established by the City. The City agrees to facilitate the purchase of parking permits for the leased premises and maintain associated customer accounts.
4. The City agrees to pay over to CUMC, during the term of this Limited License, an amount equal to fifty percent (50%) of the gross revenues derived from parking permits or other parking transactions accrued for the Parking Deck. Said revenues shall be paid to CUMC on a monthly basis and shall include a financial report regarding the transactions at the Parking Deck for such period. The City shall retain the remaining fifty percent of the gross revenues derived from parking permits or other parking transactions accrued for the Parking Deck.
5. CUMC may designate certain personnel authorized to park in the Parking Deck at any time at no charge. CUMC also reserves the right to reserve and manage the entire Parking Deck on Sundays (for the entire day) and solely the street-level floor of the Parking Deck on Wednesday evenings (from 5:00 pm – 9:00 pm) exclusively for its purposes at no charge. CUMC reserves the right to tow, relocate, or immobilize at the owner's expense, any vehicle that is parked illegally during such times. CUMC and the City shall jointly approve any signage installed at the Parking Deck prior to installation. During Sundays (for the entire Parking Deck) and Wednesdays (solely for the street-

level floor), neither the City nor any third party engaged by the City shall provide any enforcement services at the Parking Deck.

6. The City agrees to coordinate with designated personnel of CUMC regarding parking needs for special events requiring the use of the Parking Deck at no charge. Except in extraordinary circumstances, CUMC agrees to notify City at least 24 hours in advance of its intent to use the Parking Deck for any special event. During any such special event, neither the City nor any third party engaged by the City shall provide any enforcement services at the Parking Deck.
7. Notwithstanding the terms of this Limited License, CUMC reserves the right to use the Parking Deck for such purposes as CUMC deems necessary in its sole and absolute discretion. During any such specific usage by CUMC, neither the City nor any third party engaged by the City shall provide any enforcement services at the Parking Deck.
8. Either party may terminate this Limited License for any reason in their sole and absolute discretion. Written notice of termination shall be provided to the non-terminating party by the terminating party at least sixty (60) days prior to the termination date. Upon termination of this Limited License, City shall remove the System Improvements and make any cosmetic repairs necessary to restore the facility to its original condition, normal wear and tear excepted, at City's sole cost and expense. The City has no right to possession of the Parking Deck or any portion thereof beyond the expiration of termination of this Limited License. Nothing contained herein shall be construed as consent by CUMC to any holding over by the City after the expiration or termination of this Limited License. Furthermore, nothing contained herein shall constitute a dedication of the Parking Deck to the public for general use and the parties agree that the Parking Deck remains the sole private property of CUMC notwithstanding this Limited License.
9. Under Arkansas law, the City may not enter into a covenant or agreement to hold a party harmless or to indemnify a party from prospective damages. However, with respect to loss, expense, damage, liability, claims or demands either at law or in equity for actual or alleged injured persons or property arising out of any negligent act or omission by either party and their employees or agents in the performance of this Limited License, the parties agree that: (a) they will cooperate with one another in the defense of any action or claim brought against the other party seeking the foregoing damages or relief; (b) they will in good faith cooperate with each other should either party present any claims of the foregoing nature to any tribunal or commission with jurisdiction over such matter; (c) they will not taken any action to frustrate or delay the prompt hearing on claims of the foregoing nature and will make reasonable efforts to expedite the adjudication of such claims; provided, however, both parties reserve the right to assert in good faith all claims and defenses available to them in any such proceedings.
10. CUMC shall not assume any liabilities or responsibilities of enforcement of the Parking Deck pursuant to this Limited License. CUMC shall not be responsible for any losses, damages, or injuries caused by the City or its employees, agents or third parties

(including any third party hired by the City to provide enforcement services at the Parking Deck).

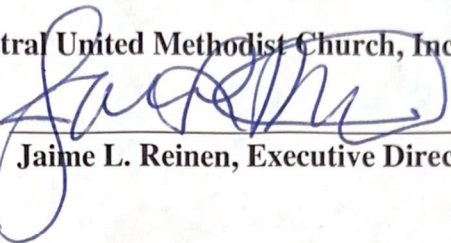
11. The parties agree that time is of the essence with respect to the performance of their respective obligations under this Limited License. This Limited License shall be governed by the laws of the State of Arkansas. The relationship of the parties to this Limited License is that of independent contractors, and nothing in this Limited License should be construed to create any agency, joint venture, or partnership relationship between the parties. The parties mutually warrant and represent that they have the full power and authority to execute this Limited License and to perform all obligations set forth herein. This Limited License may be executed concurrently in one or more counterparts, each of which shall be an original. To facilitate the execution of this Limited License, this Limited License may be executed by facsimile or e-mail signature.

{Remainder of Page Intentionally Left Blank; Signature Page to Follow}

IN WITNESS WHEREOF, the parties hereto have caused their signatures to be set by their authorized representative effective the date set forth herein above.

Central United Methodist Church, Inc.

By:

 11/12/24
Jaime L. Reinen, Executive Director

City of Fayetteville, Arkansas

By:

Lionel Jordan, Mayor

ATTEST:

Kara Paxton, City Clerk/Treasurer



Override 1

Exhibit
Fayetteville, AR

The data contained herein was compiled from various sources for the sole use and benefit of the City of Fayetteville Geographic Information System and the public agencies it serves. Any use of the data by anyone other than the City of Fayetteville is at the sole risk of the user; and by acceptance of this data, the user does hereby agree to indemnify the City of Fayetteville and hold the City of Fayetteville harmless from and without liability for any claims, actions, costs, or damages of any nature, including the city's cost of defense, asserted by or to another arising from the use of this data. The City of Fayetteville makes no express or implied warranty with reference to the data. No word, phrase, or clause found herein shall be construed to waive that tort immunity set forth under Arkansas law.

Created: 11/22/2024
Credits: City of Fayetteville, AR, 2024 Imagery | EagleView Technologies | Surdex Corporation
Map Author:



MEETING OF DECEMBER 17, 2024

TO: Mayor Jordan and City Council
THRU: Yolanda Fields, Comm. Resources Dir./Equity Off.
FROM: Justine Lentz, Animal Services Superintendent
SUBJECT: **Approval of a resolution to approve a budget adjust for Animal Services**

RECOMMENDATION:

Staff recommends approval of a budget adjustment to recognize and allocate the Animal Services donation revenue from January 1 through November 21, 2024, in the amount of \$41,174.00.

BACKGROUND:

Animal Services would like to recognize donation revenue from citizens and businesses made from January through November 21, 2024. These funds are donated by our generous community to benefit the animals cared for by the Animal Services department of the city of Fayetteville. We appreciate their support.

DISCUSSION:

N/A

BUDGET/STAFF IMPACT:

Recognize and allocate animal services donations in the amount of \$41,174.00

ATTACHMENTS: SRF (#3), BA (#4), City Council Memo - Animal Services Donation (#5)



City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8323

Legislation Text

File #: 2024-0903

Approval of a resolution to approve a budget adjust for Animal Services

A RESOLUTION TO APPROVE A BUDGET ADJUSTMENT IN THE AMOUNT OF \$41,174.00 REPRESENTING DONATION REVENUE TO THE ANIMAL SERVICES DIVISION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment, a copy of which is attached to this Resolution, in the amount of \$41,174.00 representing donation revenue to the Animal Services Division from January 1, 2024 through November 21, 2024.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby expresses its sincere appreciation for the donations.

City of Fayetteville Staff Review Form



Item ID

12/17/2024

City Council Meeting Date - Agenda Item Only
N/A for Non-Agenda Item

Brianna Curry

11/21/2024

ANIMAL SERVICES (671)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Approve a budget adjustment in the amount of \$41,174.00, representing donation revenue to Animal Services received from January 1 to November 21, 2024.

Budget Impact:

see attached detail

General Fund

Account Number

Fund

33048-1

Animal Services Donations

Project Number

Project Title

Budgeted Item? Yes

Total Amended Budget

\$ 130,131.00

Expenses (Actual+Encum)

\$ 23,233.00

Available Budget

\$ 106,898.00

Does item have a direct cost? No

Item Cost

\$ -

Is a Budget Adjustment attached? Yes

Budget Adjustment

\$ 41,174.00

Remaining Budget

\$ 148,072.00

V20221130

Purchase Order Number:

Previous Ordinance or Resolution #

Change Order Number:

Approval Date:

Original Contract Number:

Comments:

Budget Year	Division	ANIMAL SERVICES (671)	Adjustment Number
2024	/Org2		
	Requestor:	Brianna Curry	

Recognizing and allocating donation revenue from citizens and businesses to Fayetteville Animal Services from January 1, 2024 to November 21, 2024 in the amount of \$41, 174.00.

COUNCIL DATE:	12/17/2024
ITEM ID#:	2024-903
Holly Black	
11/25/2024 11:32 AM	
Budget Division	Date
D - (City Council)	
TYPE:	
JOURNAL #:	
GLDATE:	
CHKD/POSTED:	/

v.20241029



MEETING OF DECEMBER 17, 2024

TO: Mayor and City Council

THRU: Yolanda Fields, Director of Community Resources

FROM: Brianna Curry, Animal Services Tech.

DATE: November 21, 2024

SUBJECT: Approval of a resolution to approve a budget adjust for Animal Services

RECOMMENDATION:

Staff recommends approval of a budget adjustment to recognize and allocate the Animal Services donation revenue from January 1 through November 21, 2024, in the amount of \$41,174.00.

BACKGROUND:

Animal Services would like to recognize donation revenue from citizens and businesses made from January through November 21, 2024. These funds are donated by our generous community to benefit the animals cared for by the Animal Services department of the city of Fayetteville. We appreciate their support.

DISCUSSION:

n/a

BUDGET/STAFF IMPACT:

Recognize and allocate animal services donations in the amount of \$41,174.00

Attachments:

Budget Adjustment



MEETING OF DECEMBER 17, 2024

TO: Mayor Jordan and City Council
THRU: Susan Norton, Chief of Staff
FROM: Peter Nierengarten, Environmental Director
SUBJECT: **Waste Transfer and Disposal Services**

RECOMMENDATION:

Staff recommends the approval of a 3-year contract with EcoVista, LLC for hauling and disposal of municipal solid waste.

BACKGROUND:

The City of Fayetteville Recycling and Trash Collections Division collects all residential and commercial trash for City of Fayetteville residents and businesses and delivers that trash to the City's Transfer Station at 1560 S. Happy Hollow Rd. Additionally, private waste haulers as well as city and county residents pay to disposal of trash at the City's Transfer Station. Since 2009, the City has had a contract with Waste Management for the hauling and disposal of all trash at the City's Transfer Station to the EcoVista Landfill in Tontitown. That contract expires on December 31, 2024.

DISCUSSION:

In May 2024, the City issued RFP 24-09 for Waste Transfer and Disposal Service from the City's Transfer Station to a properly permitted disposal location. Two responses were received in June and a selection committee chose EcoVista, LLC (formerly Waste Management) as the most qualified bidder.

The contract requires that all solid waste delivered to the City's Transfer Station be removed and disposed of by EcoVista, LLC by the end of each day. All loads will be covered and contained to prevent leakage and blowing of waste and shall be disposed into a permitted disposal site. The base rate for hauling and disposal of waste will be \$52.22 per ton. Additionally, the contract contains terms to adjust that base rate monthly according to the wholesale cost of diesel fuel, quarterly based on the average weight of trailers leaving the City transfer Station and annually based on the Consumer Price Index (CPI). The new contract term is for three years with options for four successive three-year renewals.

BUDGET/STAFF IMPACT:

Funds for hauling and disposal services are budgeted in the Recycling and Trash Collections Fund.

ATTACHMENTS: SRF (#3), Eco-Vista, LLC. Contract (OLD VERSION) (#4), RFP 24-09, Submittal - Waste Management of Arkansas Inc. (#5), Secretary of State - EcoVista - Waste Management (#6), Appendix A - RFP 24-09 (#7), Appendix B - Waste Management Contract - Fayetteville Fuel surcharge Calculator (#8), Appendix C - Waste Management Exceptions to RFP (#9), Eco-Vista, LLC. Replacement Contract (#10)



City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8323

Legislation Text

File #: 2024-0934

Waste Transfer and Disposal Services

A RESOLUTION TO APPROVE AN AGREEMENT WITH ECO-VISTA, LLC FOR THE HAULING AND DISPOSAL OF SOLID WASTE IN THE CITY OF FAYETTEVILLE FOR A PERIOD OF 3 YEARS WITH AUTOMATIC RENEWALS FOR FOUR ADDITIONAL 3 YEAR TERMS

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves an agreement with Eco-Vista, LLC, a copy of which is attached to this Resolution, for the hauling and disposal of solid waste in the City of Fayetteville for a period of 3 years with automatic renewals for four additional 3 year terms.

City of Fayetteville Staff Review Form

2024-934

Item ID

12/17/2024

City Council Meeting Date - Agenda Item Only
N/A for Non-Agenda Item

Peter Nierengarten

11/27/2024

RECYCLING/TRASH COLLECTION (750)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Staff recommends the approval of a 3-year contract with EcoVista, LLC for hauling and disposal of municipal solid waste.

Budget Impact:

5500.750.XXXX-5316.00

Recycling and Trash Collections

Account Number

Fund

Project Number

Project Title

Budgeted Item? Yes

Total Amended Budget

\$ 3,495,403.00

Expenses (Actual+Encum)

\$ -

Available Budget

\$ 3,495,403.00

Does item have a direct cost? No

Item Cost

\$ -

Is a Budget Adjustment attached? No

Budget Adjustment

\$ -

Remaining Budget

\$ 3,495,403.00

V20221130

Purchase Order Number:

Previous Ordinance or Resolution # 229-19

Change Order Number:

Approval Date:

Original Contract Number:

Comments: Total Amended Budget amount is the proposed 2025 budgeted amount. The Item Cost amount is left blank due to the fact that the amount will vary depending on tonnage.

CONTRACT FOR WASTE TRANSFER AND DISPOSAL SERVICES

This Contract for Waste Transfer and Disposal Services (the "Contract"), is made and entered into this _____ by and between the City of Fayetteville, Arkansas, a municipal corporation, ("the City") and Eco-Vista, LLC ("Waste Management" or "Contractor")

IN CONSIDERATION of mutual promises of the parties contained herein and other good and valuable consideration, the parties agree as follows:

1. DEFINITIONS: As used herein this Contract, the following terms shall have the following meanings:

a. "Disposal Facility" - means the landfill known as the Eco-Vista Landfill, located at 2210 WM Drive, Springdale, AR 72762, which is which is utilized, owned, and operated by Contractor and permitted to receive Solid Waste, C&D and/or Special Waste by the applicable federal, state, and/or local agency, or another duly permitted landfill operated in compliance with the regulations stipulated by the applicable state agency and/or the U.S. Environmental Protection Agency.

b. "Transfer Station" – means the Fayetteville Solid Waste Transfer Station, located at 1560 S. Happy Hollow Road, Fayetteville, Arkansas 72701, which is utilized, owned and operated by the City and permitted to receive Solid Waste, Yard Waste, C&D and/or Special Waste by the applicable federal, state, and/or local agency.

c. "Solid Waste" – means all non-hazardous Garbage, Rubbish, and/or C&D that can legally be received at the Transfer Station and Disposal Facility. The term "Solid Waste" specifically excludes Unacceptable Waste.

d. "Garbage" – means waste materials consisting of putrescible or animal and vegetable waste materials resulting from the handling, preparation, cooking, and consumption of food, including waste materials from markets, storage facilities, handling and sale of produce and other food products, and all dead animals of less than ten pounds (10 lbs) in weight, except those slaughtered for human consumption.

e. "Rubbish" – means nonputrescible waste materials (excluding ashes), consisting of both combustible and noncombustible waste materials. Combustible rubbish includes paper, rags, cartons, wood, excelsior, furniture, rubber, plastics or similar materials; noncombustible rubbish includes glass, crockery, tin cans, aluminum cans, metal furniture, and similar materials that will not burn at ordinary incinerator temperatures (1,600 degrees Fahrenheit to 1,800 degrees Fahrenheit).

f. "Medical Waste" – means waste materials generated by health care related facilities and associated with health care activities, not including Garbage or Rubbish generated from offices, kitchens, or other non-health-care activities. The term includes Special Waste from health care-related facilities which is comprised of animal waste, bulk blood and blood products, microbiological waste, pathological waste, and sharps as those terms are defined in in Ark. Code Ann. §20-32-101 (relating to Definitions).

g. "Construction and Demolition Debris" or "C&D" – means materials resulting from construction, remodeling, repair, or demolition operations. Such materials include, but are not limited to, dirt, sand, rock, bricks, plaster, gypsum wallboard, aluminum, glass, asphalt material, plastic pipe, roofing material, carpeting, concrete, wood, masonry, trees, remnants of new construction materials, including paper, plastic, carpet scraps, wood scraps, scrap metal, building materials, and packaging. With the exception of soil, concrete and asphalt, Construction and Demolition Debris does not include Unacceptable Waste.

h. "Special Waste" – means waste materials that require special handling and management due to the nature of the waste, including, but not limited to, the following: (i.) containerized waste (e.g. a drum, barrel, portable tank, box, pail, etc.), (ii.) waste transported in bulk tanker, (iii.) liquid waste, (iv.) sludge waste, (v.) waste from an industrial process, (vi.) waste from a pollution control process, (vii.) residue and debris from the cleanup of a spill or release of chemical(s), or (viii.) any other waste defined by applicable law, rule or regulation as "Special Waste."

i. "Unacceptable Waste" - any waste or material that (i) the acceptance and handling of which by Contractor would cause a violation of any permit, condition, legal or regulatory requirement, (ii) can cause substantial damage to Contractor's equipment or facilities, (iii) presents a danger to the health or safety of the public or Contractor's employees, (iv) is or contains Hazardous Waste, industrial waste, liquid waste, Special Waste that has not been profiled and pre-approved by Contractor, untreated Medical Waste, dead animals weighing ten pounds (10 lbs.) or greater, (v) is or contains solid or dissolved material in domestic sewage, or solid or dissolved material in irrigation return flows, or industrial discharges subject to regulation by permit, or (vi) results from activities associated with the exploration, development, or production of oil or gas or geothermal resources, (vii) is or contains fuels, (viii) is or contains motor oil or paint, (ix) is or contains televisions, (x) is or contains batteries, (xi) is or contains florescent light bulbs, (xii) is or contains white goods (household appliances), (xiii) is or contains treated/de-characterized wastes, (xiv) is or contains any waste tires, (xv) is or contains sludge, (xvi) is or contains waste or materials that may adversely affect the operations of the Disposal Facility or Transfer Station regardless if such waste or materials could be legally received, and/or (xvii) is or contains other solid or liquid waste specifically prohibited for disposal at the Disposal Facility or Transfer Station by Arkansas Department of Environmental Quality (ADEQ) or any other regulatory agency having jurisdiction over such landfill, in accordance with applicable law. Title to and liability for Unacceptable Waste shall remain with the generator all times. Contractor has no obligation to accept, transport, process or dispose of any Unacceptable Waste.

j. "Work" – means all labor, services, equipment, and material necessary for Contractor to complete the obligations and all other requirements included in this Contract.

2. TERM OF CONTRACT: The Contract is to take effect and continue and remain in full force and effect for a period of three (3) years, and such period shall commence on the later of

January 1, 2025 or on the date the contract is approved by the Fayetteville City Council (the "Effective Date") and the Contract shall automatically terminate thirty-six (36) months after the Effective Date. The parties shall have the option to renew this Contract for a total of four (4) successive three (3) year terms upon mutual written agreement. The option to renew can be made effective by written notification from either party to the other party no later than ninety (90) days prior to the expiration of the then current contract term. Notwithstanding the foregoing, this Contract will be subject to the annual appropriation of sufficient funds for this Contract in the budget by the Fayetteville City Council.

3. CONTRACT DOCUMENTS: The parties agree that the following documents are incorporated into and are made a part of the Contract as if their terms and conditions were set forth herein:

- a. Appendix A: RFP 24-09, Waste Transfer and Disposal Services and its appendices that were issued by the City ("RFP")
- b. Appendix B: Fayetteville Fuel Surcharge Calculator
- c. Appendix C: Contractor's exceptions to certain provisions in response to the RFP

In the event of any inconsistency or contradiction between the terms of this Contract and any of its Appendices or attachments, the order of precedence and controlling provisions shall be as follows: (1) this Contract; (2) Appendix C; (3) Appendix A; and (4) Appendix B.

4. CITY'S OBLIGATIONS: Obligations and services to be provided by Contractor under the terms of this Contract shall include the following:

- a. City hereby grants and the Contractor hereby accepts the sole and exclusive contract, license and privilege to dispose of all municipal, residential and commercial Solid Waste which is delivered to the Transfer Station.
- b. City shall own, operate and maintain the Transfer Station in accordance with all applicable laws and regulations.
- c. The Transfer Station shall be open for the performance of this Contract between the hours of 5:30 a.m. and 3:00 p.m., Monday through Friday and 5:30 a.m. and 11:00 a.m. on Saturday.
- d. City shall be responsible for loading the Solid Waste into Contractor's or its subcontractor's trailers. The obligation of City to load all Solid Waste into Contractor's or its subcontractor's trailers is an integral and material part of this Contract. City's obligation to provide loading services shall be a continuing obligation. In the event the City fails to meet the aforementioned loading obligations, which are not cured within thirty (30) days of receipt of a written notice from Contractor specifying the circumstances, then Contractor may terminate this Contract as of any date at least ten (10) days after the last day of the thirty (30) day cure period.

e. City will be responsible for loading transport trailers with Solid Waste at payload weights no greater than that required to reach the gross vehicle weight limitation set by applicable law. However, in the interest of efficiency, the City is responsible for loading Solid Waste in such a way that a standard trailer with a capacity of 115 cubic yards will contain a minimum of 23 tons of Solid Waste. Any loads that do not meet the minimum weight will be subject the City to paying a surcharge as described in Section 6 below.

f. City shall not load, send, or tender for delivery to Contractor any Unacceptable Waste. Contractor shall not accept title or any liability for Unacceptable Waste loaded onto Contractor's trucks at the Transfer Station. Title and responsibility for Unacceptable Waste shall remain with the generator of such material. Contractor and its subcontractor shall be obligated to monitor and observe the loading of Solid Waste at the Transfer Station, at its own cost and expense; however, City retains responsibility for excluding Unacceptable Waste from the material City loads into Contractor's trucks.

g. If the City loads or causes Unacceptable Waste to be delivered to the Disposal Facility, the Contractor may in its sole discretion either remove, manage, handle, store, treat, and/or dispose of that Unacceptable Waste and charge the City for the costs, expenses, damages, fines, and penalties arising out of such activities or require the City to promptly remove, manage, handle, or dispose of the Unacceptable Waste from the Disposal Facility at the City's sole cost. City shall pay or reimburse Contractor for any and all costs, damages and/or fines incurred as a result of or relating to the City's tender or delivery of Unacceptable Waste, including costs of inspection, testing, analysis, legal fees, professional consulting fees, or removal costs.

5. CONTRACTOR'S OBLIGATIONS: The obligations and services to be provided by Contractor under the terms of this Contract shall include the following:

- a. All municipal, residential and commercial Solid Waste received at the Fayetteville Transfer Station shall be transported to a permitted and approved Disposal Site. The parties agree that the Contractor shall primarily transport all Solid Waste from the Transfer Station to the Eco-Vista Landfill; however, Contractor is also permitted to transport the Solid Waste to the Ozark Ridge Landfill, located at 10140 Ozark Ridge Access Lane, Danville, AR 72833, as an alternate facility for disposal.
- b. Contractor shall have full, complete, and sole control and direction over all aspects of its business and operation as contemplated under this Contract. Contractor shall provide all equipment, personnel, vehicles, and management required to fulfill Contractor's obligations under this Contract.
- c. Contractor shall be responsible for securing necessary permits and approvals from relevant Federal, State, and local governmental agencies having jurisdiction over its disposal operations referenced herein; provided, however, City shall retain responsibility for obtaining all permits and approvals related to the operation of the Transfer Station, including without limitation, any activities related to the loading of the Solid Waste into Contractor's or its subcontractor's trucks. During the term hereof,

Contractor shall receive and accept the City's Solid Waste from the Transfer Station and transport and dispose of such Waste at the Disposal Facility, all in compliance with applicable laws and regulations. This Contract excludes and Contractor has no obligations to accept Unacceptable Waste for transport or disposal.

- d. All Solid Waste shall be removed from the Transfer Station by the end of each day (Monday through Saturday), including all holidays except New Year's Day, Thanksgiving Day, and Christmas Day. The first transport truck shall be at the City's Transfer Station by 5:30 AM and the last truck leaves approximately between 2:00 PM – 3:00 PM (M-F) and by 11:00 AM on Saturdays.
- e. Transporting of all Solid Waste shall be contained, tied, or enclosed, so that leaking, spilling, or blowing of waste is prevented.
- f. Contractor shall provide detailed inventory of assets illustrating that there is an adequate number of vehicles, trailers, and backup equipment, maintained in good physical condition. Information on all proposed labor, supervisors, maintenance, fuel, and necessary supplies to ensure the daily systematic and satisfactory performance of all services specified in this scope of work shall also be provided.
- g. Contractor shall prepare any required reports to all government agencies for the Work hereunder this Contract, if applicable, and will provide copies of said reports to City.
- h. Contractor shall provide to the City documented proof of disposal for each load. Such documentation shall be provided to the City with each invoice.

6. FEES:

- a. **Base Rate.** The City agrees to pay Contractor the current rate of \$52.22 (\$14.67 for transportation and \$38.55 for disposal) per ton (the "Base Rate") through December 31, 2025, for Contractor's receipt and handling of the City's Solid Waste from the Transfer Station and the transportation and disposal of such Solid Waste at the Disposal Facility. An additional fuel surcharge shall be added to the Base Rates based on the surcharge further defined below during the term of this Contract.
- b. **CPI Increase.** Beginning on January 1, 2026 and on each January 1 thereafter (including in any renewal or extension terms), the Base Rate shall be automatically adjusted by the annual percentage change in the average that the Consumer Price Index, US City Average for All Urban Consumers (current series), Water, Sewer, Trash Collection, Not Seasonally Adjusted, Series ID CUUR0000SEHG ("CPI") (<https://beta.bls.gov/dataViewer/view/timeseries/CUUR0000SEHG>) has increased over the 12 most recently published months compared to the average CPI for the preceding twelve-month period for which the data has been published. If the above CPI ceases to be published, the parties agree to substitute another equally authoritative measure of change in the purchasing power of the U.S. dollar as may be then available so as to carry out the intent of this provision.
 - i. The CPI published on the first Monday prior to the end of the month (or the first business day thereafter if such Monday is a Federal Holiday) shall be used to determine the monthly change. The annual percentage change shall be calculated by subtracting the average CPI value for the

previous 12-months from the average CPI value for the most recent 12-month period, the result of which shall be divided by the prior 12-month period average. An example of the CPI annual increase calculation follows:

Index	2020 12-Month Average	2021 12-Month Average	Change	Applied Percentage Change
CPI – Water, Sewer, Trash	252.46	261.47	9.01	3.6% (9.01/252.46)

- ii. Waste Management shall coordinate with the City in writing prior to any implementation of any CPI price adjustment. Such coordination shall include the amount of the price adjustment, documentation substantiating the CPI published numbers, and the date the adjusted price takes effect. The City and Waste Management shall mutually agree on any increase, including calculation accuracy on CPI or other equally authoritative measure as applicable, prior to any price adjustment.
- c. **Surcharges.** In addition to the Base Rate above, the City shall pay to Contractor the following surcharges if the applicable conditions are met:
 - i. **Quarterly True Up.** The City shall pay a Quarterly True Up payment to Contractor if the City does not achieve a twenty-three (23) tons per load quarterly average. The City shall pay to Contractor the difference for any short falls at a rate of \$14.67 per missed ton, as set forth per the following example below (“Quarterly True Up”).

Quarterly True up	
Example: Fayetteville to ECO at 22 tpi	
Minimum TPL:	23
Rate Per Ton:	\$14.67
Quarterly Total Tons:	1000
Quarterly Total Loads:	48
Quarterly Average TPL (Total Tons/Total Loads):	21.83

Missed Average TPL (Minimum TPL-Quarterly Average TPL):	1.17
Missed Tons (Quarterly Total Loads x Missed Average TPL):	56.16
WM Pays MBI For Minimum Charges (Missed Tons x Rate Per Ton):	\$823.87

- ii. **Fuel Surcharge.** The City shall pay a fuel surcharge in addition to the Base Rates for transportation, disposal and the Quarterly True Up payment as follows ("Fuel Surcharge"): In the event that the price of fuel deviates from the threshold price per gallon, a mileage based fuel surcharge (or discount) shall be applied on a per haul basis. The surcharge will increase or decrease by one cent (\$.01) per mile for every 5-cent increase or decrease in the price of diesel fuel above or below the threshold price of \$3.50 per gallon, as determined by the corresponding per mile surcharge shown in the table attached as Appendix B. Calculations shall be made the first week of each month based upon the United States Energy Information Administration's (EIA) U.S. On-Highway Diesel Fuel Price Index for PADD 2 (Midwest) price as reported on their website at <http://www.eia.gov/petroleum/gasdiesel/> or phone no. (202) 586-6966, will be used as typically announced each Monday, or on Tuesday when Monday is a federal holiday.

7. SECURING FOR PERFORMANCE – BID SECURITY: The Contractor will be required to furnish a corporate surety bond as security for the performance of the Work under this Contract. Said surety bond shall be in the amount of twenty five percent (25%) of the previous year's total value of the Contract. The premium for the bond(s) described above shall be paid by the Contractor. A certificate from the surety showing that the bond premium(s) is/are paid in full shall accompany the bond. The surety on the bond shall be from corporate surety company duly authorized to do business in the State of Arkansas. Bonds must be written by an "A" rated bonding company.

8. QUANTITIES: The City makes no warranties as to the quantities of Solid Waste available for transfer and disposal. During the term of this Contract all of the municipal, residential and commercial waste delivered to the Transfer Station (except recyclable waste recycled as such) shall be transported and disposed according to these Contract terms.

9. DISPOSAL SITES: Contractor shall provide evidence satisfactory to the City that the Contractor shall at all times have a commitment for adequate landfill air space adequate to exceed the projected needs of the Solid Waste to be disposed of hereunder during the term of the Contract, but in any case, not less than 10 years. Disposal Site will be in compliance with the Resource Conservation and Recovery Act, Subtitle "D" and any applicable subtitles or state, and/or local agency regulations required of said site. Prior to any change by the Contractor of the Disposal Site, the Contractor shall provide documentation to the City of Fayetteville that such site meets specifications hereunder.

10. REPRESENTATIONS OF THE CITY OF FAYETTEVILLE: The City represents and warrants that the Transfer Station shall be properly and fully permitted as a Solid Waste transfer station by all applicable federal, state and local governmental authorities.

11. DEFAULT AND TERMINATION: Except as otherwise provided herein, if either party defaults in the performance of any of the covenants or conditions contained herein this Contract, and fails to cure such default within sixty (60) days after the non-defaulting party has given the defaulting party written notice of such default (or if such default is of a nature that it cannot be cured within such sixty (60) day period, the defaulting party fails to commence the curing of such default within such sixty (60) day period, and fails to thereafter diligently pursue the curing thereof) (the "Cure Period"), the non-defaulting party may: (a) terminate this Contract as of any date which the non-defaulting party may select; (b) cure the default at the expense of the defaulting party; and/or (c) have recourse to any other right or remedy to which it may be entitled by law, including, but not limited to, the right to all damages or losses suffered as a result of such termination. In the event either party waives default by the other party, such waiver shall not be construed or determined to be a continuing waiver of the same or any subsequent breach or default.

12. AUDIT; ACCESS TO RECORDS

- a. Contractor shall maintain books, records, documents and other evidence directly pertinent to performance on Work under this Contract in accordance with generally accepted accounting principles and practices. Contractor will provide information within 30 calendar days of the City's request. City of Fayetteville, the State or any of their authorized representatives shall have access to relevant books, records, documents and other evidence for the purpose of inspection, audit and copying during normal business hours and upon prior reasonable notice; provided, however, there shall be no right to audit Contractor's books, records, documents and other evidence to determine profits or general administrative and overhead expenses. Contractor will provide proper facilities for such access and inspection.
- b. Records hereunder shall be maintained and made available for a period of five (5) calendar years or as otherwise required under Ark. Code Ann. § 14-59-114 and Ark. Code Ann. § 14-237-112. In addition, those records which relate to any dispute between the parties hereunder or any other claim or cause of action related to this Contract or performance hereunder, or to costs or items to which an audit exception has been taken, shall be maintained and made available until three years after the date of resolution of such appeal, litigation, claim or exception.
- c. Contractor will submit or assist with submission of any annual or other reports that may be required by any applicable law, rule, regulation, code, or ordinance of the City and any other county, state, or federal agency or entity associated with or otherwise implicated by this Contract. If any litigation, claim, negotiation, audit monitoring, inspection, or other action has been started before the expiration of the foregoing required record retention period, Contractor shall retain the records require hereunder until completion of the action and resolution of all issues which arise from it, or the end of the required period, whichever is later.

13. INDEMNIFICATION. Contractor agrees to defend and indemnify the City against damages, claims, costs, and lawsuits to the extent arising out of Contractor's negligent acts or omissions and willful misconduct, or its violation of any applicable law in providing the Work under this Contract, except that the City shall not be entitled to such indemnification from Contractor to the extent that the City's loss, expense, damage, charge or cost arises from a willful or negligent act or omission of the City, its officers, agents, subcontractors or employees. Upon obtaining knowledge of any matter giving rise to possible indemnification, the City shall notify the Contractor immediately. The Contractor shall have the right to defend or contest any such claim or demand in the name of the City. The City shall cooperate as the Contractor may reasonably request and shall make available to the Contractor or its representatives all records and other materials reasonably required in such defense.

14. ADMINISTRATIVE PROVISIONS:

- a. Non-Public Function. This is an agreement for the performance of specific services described herein. Under no circumstances or conditions shall the operation of the Disposal Facility or disposal of the Solid Waste by Contractor in accordance with this Contract be deemed a public function, nor has City acquired an interest, ownership, or otherwise in the real or personal property or improvements or fixtures used in providing the transportation services and/or the disposal services at the Disposal Facility by virtue of this Contract.
- b. Resolution by Court of Law; Non-binding Mediation. Claims, disputes, or other matters in question between the parties to this Contract arising out of or relating to this Contract or breach thereof shall be subject to and decided by a court of law. The parties can agree to non-binding mediation prior to litigation.
- c. Notices.
 - i. Delivery. Except as otherwise provided herein, any notice or other communication between the parties hereby regarding the matters contemplated by the Contract may be sent by United States mail (first class, airmail, or express mail), commercial courier, or personal delivery, in each case delivered to the address set forth below for the recipient.
 - ii. Receipt. Communications shall be deemed received, if by mail, on the later of receipt or the third calendar day after deposit in the mail with postage prepaid; if by courier, when delivered as evidenced by the courier's records; and if by personal delivery, upon receipt. If received on a day other than a business day, or on a business day but after 4:30 p.m., recipient's local time, the communication will be deemed received at 9:00 a.m. the next business day.
 - iii. Addresses.

1. If to City:

City of Fayetteville
Solid Waste Director
113 West Mountain Street
Fayetteville, AR 72701

2. If to Contractor: Eco-Vista, LLC
Attn: Jamie Vernon, Public Sector Mgr.
88 Joyce Lane
Russellville, AR 72801

With a copy to: Waste Management
Attn: Sr. Legal Counsel for Mid-South
800 Capitol St, Suite 3000
Houston, TX 77002

- d. **Assignment.** The provisions of this Contract shall inure to the benefit of and be binding upon the respective successors and assignees of the parties hereto. Assignment of this Contract or any of the rights and obligations of Contractor hereunder, in whole or in part, requires the prior written consent of the City. Whenever the consent or approval of a party is required under this Contract, such consent or approval will not be unreasonably withheld, conditioned, or delayed.
- e. **Severability.** If any term, clause, or provision of this Contract or the application thereof to any person or circumstances shall, to any extent, be illegal, invalid, or unenforceable under present or future laws effective during the term of this Contract then it is the intention of the parties hereto that the remainder of this Contract, or the application of such term, clause, or provision to persons or circumstances other than those to which it is held illegal, invalid, or unenforceable, shall not be affected thereby; and it is also the intention of the parties hereto that, in lieu of each term, clause, or provision that is illegal, invalid, or unenforceable, there be added by a court of competent jurisdiction or otherwise as a part of this Contract a term, clause, or provision as similar in terms to illegal, invalid, or unenforceable term, clause, or provision as may be possible to effect the expressed intent of the parties and be legal, valid, and enforceable.
- f. **Entire Agreement.** The complete understanding between the parties is set out in this Contract, and this Contract supersedes and voids all prior and contemporaneous understandings, proposals, letters, agreements, or conditions expressed or implied, oral or written, except as herein contained. Any amendment, modification, waiver, or discharge of any requirement of this Contract will not be effective unless in writing signed by the parties hereto or by their authorized representatives.
- g. **Relationship between the parties.** The relationship of the parties shall be that of an independent contractor. No principal-agent or employer-employee relationship is created by this Contract. The parties hereto shall hold itself out in a manner contrary to the terms of this paragraph. No party shall become liable for any representation, act, or omission of any other party contrary to the terms of this paragraph.
- h. **Force Majeure.** No party shall have any liability to the other hereunder by reason of any delay or failure to perform any obligation or covenant if the delay or failure to perform is occasioned by a Force Majeure event. For purposes of this Contract, "Force Majeure" shall mean any unforeseeable and unavoidable act of God, storm, fire, pandemic, epidemic, casualty, unforeseeable work stoppage or labor shortage, labor strike, lockout, labor dispute, equipment shortage or injunction, civil disturbance, riot, war, terrorism, national emergency, , act of public enemy, lack of; national defense requirements; imposition of government orders or changes in applicable local, state or

federal laws, rules and regulations if it is not also the result of the willful misconduct or negligent action or inaction of the party relying thereon; or other cause of similar or dissimilar nature beyond its control. In the event Contractor is unable to transport City Solid Waste to the Disposal Facility because of a Force Majeure event, Contractor may, at its sole risk, store up to a maximum of five (5) loaded vehicles and/or trailers at the Transfer Station for a period not to exceed Federal, State, or local regulations. The storage shall remain in effect only until normal operating conditions are restored. Any time that City or Contractor intends to rely upon an event of Force Majeure to suspend obligations as provided in this section, the declaring party shall notify the other party to this Contract as soon as reasonably practicable, describing in reasonable detail the circumstances of the event of Force Majeure. Notice shall again be given when the effect of the event of Force Majeure has ceased.

- i. Headings. The headings in this Contract are for convenience and reference and are not intended to define or limit the scope of any provision of this Contract.
- j. Counterparts. This Contract may be executed in multiple counterpart copies and by facsimile or emailed signatures, each and all of which will be deemed an original.

15. **FREEDOM OF INFORMATION ACT:** City of Fayetteville contracts and documents prepared while performing City of Fayetteville contractual work are subject to the Arkansas Freedom of Information Act. If a Freedom of Information Act request is presented to the City of Fayetteville, the Contractor will do everything possible to provide the documents in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (A.C.A. § 25-19-101 et. seq.). Only legally authorized photocopying costs pursuant to the FOIA may be assessed for the compliance.

16. **JURISDICTION AND VENUE:** This Contract shall be interpreted and enforced pursuant to Arkansas law. Jurisdiction and venue shall be in Washington County, Arkansas or the United States District Court for the Western District of Arkansas.

IN CONTRACT with the provision set out above, we sign our names below on this the _____ day of _____, 2024.

ECO-VISTA, LLC

By: 

Ed McManus, VP
Printed Name and Title

**CITY OF FAYETTEVILLE,
ARKANSAS**

By: _____
Lioneld Jordan, Mayor

Witness:

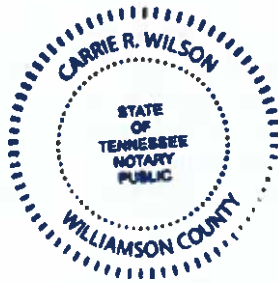
Attest:

By: Carrie Wilson
Company Secretary

By: Kara Paxton, City Clerk/Treasurer

Carrie Wilson, Exec. Asst.
Printed Name and Title

My Commission Expires
March 21, 2026





RFP 24-09 Addendum 2

Waste Management of Arkansas Inc

Supplier Response

Event Information

Number: RFP 24-09 Addendum 2
Title: Waste Transfer and Disposal Services
Type: Request for Proposal
Issue Date: 5/12/2024
Deadline: 6/11/2024 02:00 PM (CT)
Notes: The City of Fayetteville, Arkansas, is now accepting proposals from properly licensed professionals for the daily transport and disposal of all solid waste received at the Fayetteville Solid Waste Transfer Station. Any questions regarding this solicitation process shall be directed to Amanda Beilfuss, City of Fayetteville Sr. Purchasing Agent at abeilfuss@fayetteville-ar.gov or (479) 575-8220.

Contact Information

Contact: Amanda Beilfuss
Address: Purchasing
Room 306
City Hall
113 West Mountain Street - Room 306
Fayetteville, AR 72701
Email: abeilfuss@fayetteville-ar.gov

Waste Management of Arkansas Inc Information

Address: 1041 Arbor Acres Ave
Springdale, AR 72762
Phone: (479) 213-3650
Email: jvernon@wm.com

By submitting your response, you certify that you are authorized to represent and bind your company.

Jamie Vernon

Signature

Submitted at 6/11/2024 09:01:31 AM (CT)

jvernon@wm.com

Email

Requested Attachments

RFP 24-09, Waste Transfer and Disposal Services

Fayetteville AR RFP 24-09 Waste
Transfer and Disposal Services
Response 06112024.pdf

Please attach the signed and completed RFP form, located in the 'Attachments' tab, along with proposal.

Bid Attributes

1 Addendum Acknowledgement

By selecting "I agree", you acknowledge that you have read all addendum(s) that have been issued for this solicitation, if applicable.

☒ I agree



RFP: 24-09 Proposal for Waste Transfer and Disposal Services

City of Fayetteville Arkansas
Response Deadline 6/11/2024 2PM

Address: Purchasing
Room 306
City Hall
113 West Mountain Street - Room 306
Fayetteville, AR 72701

Submitted by
Waste Management of Arkansas, Inc.
88 Joyce Lane
Russellville, AR 72801

Jamie Vernon
Public Sector Manager - Arkansas
jvernon@wm.com

T: 479.213.3650
88 Joyce Ln
Russellville AR 72802

RFP: 24-09 Proposal for Waste Transfer and Disposal Services

City of Fayetteville Arkansas
Address: Purchasing
Room 306
City Hall
113 West Mountain Street - Room 306
Fayetteville, AR 72701

Dear Mayor and Council Members:

The team at WM of Arkansas and Mr. Built Inc. is pleased to present the attached proposal for providing Transfer and Disposal services to the City of Fayetteville. Our bid is subject to finalizing a contract with mutually acceptable terms.

Our customers are not just clients but also our neighbors, colleagues, family, and friends. The schools, businesses, hospitals, police departments, governments, and civic organizations we serve are essential parts of our community. As a result, we are committed to contributing to the improvement of these communities.

In recent years, WM Landfills have improved on-site operations and simplified processes to ensure the safe transportation and disposal of non-hazardous municipal solid waste for the residents of Fayetteville.

The WM Eco Vista landfill is fully compliant with environmental regulations and has not received any notice of violations from state, federal, or local agencies in the past decade.

WM takes pride in offering local control with national resources, enabling us to make decisions at the local level, catering to the specific needs of each community, addressing local environmental concerns, and upholding corporate citizenship. By creating local jobs and supporting local charities, schools, and service organizations, we contribute to the local economy.

We have supported the city through challenging times, whether stemming from economic, environmental, or governmental regulations, and we are committed to providing the same seamless waste disposal and transportation services to the city in the future.

WM has not only achieved national recognition but has also set the industry standard in safety, environmental responsibility, and service performance, surpassing all competitors. We are eager to continue serving the city of Fayetteville and working towards a more sustainable future, leveraging our proven track record to inspire confidence and trust in our services.

Respectfully,



Jamie Vernon
Public Sector Manager - Arkansas
jvernon@wm.com



**Request for Proposal: RFP 24-09, Waste Transfer and Disposal
Services**

DEADLINE: Thursday, June 6, 2024 before 2:00 PM, local time

PRE-PROPOSAL CONFERENCE: Wednesday, May 22, 2024 at 3:00 PM, in person at the
RTC Division, 1560 S. Happy Hollow Rd., Fayetteville, AR
72701

SR. PURCHASING AGENT: Amanda Beilfuss, abeilfuss@fayetteville-ar.gov

DATE OF ISSUE AND ADVERTISEMENT: 05/12/2024

**REQUEST FOR
PROPOSAL**

**RFP 24-09, Waste Transfer and Disposal
Services**

No late proposals shall be accepted. RFP's shall be submitted through the City's third-party electronic bidding platform or by submitting a sealed physical proposal to the City of Fayetteville, Purchasing Division at the below location.

*City of Fayetteville
Purchasing Division – Room 306
113 West Mountain Street
Fayetteville, AR 72701*

All proposals shall be submitted in accordance with the attached City of Fayetteville specifications and documents attached hereto. Each Proposer is required to fill in every blank and shall supply all information requested; failure to do so may be used as basis of rejection.

The undersigned hereby offers to furnish & deliver the articles or services as specified, at the prices & terms stated herein, and in strict accordance with the specifications and general conditions of bidding, all of which are made a part of this offer. This offer is not subject to withdrawal unless upon mutual written agreement by the Proposer/Bidder and City Purchasing Director.

City of Fayetteville
RFP 24-09, Waste Transfer and Disposal Services
Advertisement

City of Fayetteville, AR
Request for Proposal RFP 24-09,
Waste Transfer and Disposal Services

The City of Fayetteville, Arkansas, is now accepting proposals from properly licensed professionals for the daily transport and disposal of all solid waste received at the Fayetteville Solid Waste Transfer Station. Any questions regarding this RFP shall be directed to Amanda Beilfuss, City of Fayetteville Sr. Purchasing Agent at abeilfuss@fayetteville-ar.gov or (479) 575-8220.

Solicitation documents and addenda shall be obtained at the City of Fayetteville Purchasing Division's electronic bidding platform at www.fayetteville-ar.gov/bids. All proposals shall be received by Thursday, June 6, 2024 before

2:00 PM, Local Time utilizing the electronic bidding software or by submitting a sealed physical proposal to the City of Fayetteville, Purchasing Division. All proposals are due before the time stated. No late proposals shall be accepted. Submitting electronically is strongly encouraged. The City of Fayetteville shall not be responsible for lost or misdirected proposals, or for failure of proposer's technical equipment.

A non-mandatory pre-proposal conference will be held Wednesday, May 22, 2024 at 3:00 PM in the Conference Room at the Recycling Trash Division, 1560 S. Happy Hollow Rd., Fayetteville, AR 72701. Information regarding the pre-proposal conference is available on the project page on the City's electronic bidding platform. All interested parties are strongly encouraged to attend.

A one hundred percent (100%) performance bond is required with the contract award. All interested parties shall be qualified to do business and licensed in accordance with all applicable laws of the state and local governments where the project is located. Proposers shall have a current, valid registration with the Arkansas Secretary of State at time of RFP deadline OR be able to provide proof of registration before recommendation of award to Fayetteville City Council.

The City of Fayetteville reserves the right to reject any or all Proposals and to waive irregularities therein, and all parties agree that such rejection shall be without liability on the part of the City of Fayetteville for any damage or claim brought by any interested party because of such rejections, nor shall any interested party seek any recourse of any kind against the City of Fayetteville because of such rejections. The filing of any Statement in response to this invitation shall constitute an agreement of the interested party to these conditions.

City of Fayetteville
By: Amanda Beilfuss, Sr. Purchasing
Agent P: 479.575.8220
abeilfuss@fayetteville-ar.gov

*TDD (Telecommunications Device for the Deaf): (479) 521-
1316* Date of advertisement: 05/12/2024

This publication was paid for by the Purchasing Division of the City of Fayetteville,
Arkansas. Amount paid: \$204.10

City of Fayetteville
RFP 24-09, Waste Transfer and Disposal Services
SECTION A: General Terms & Conditions

1. SUBMISSION OF A PROPOSAL SHALL INCLUDE:

Each proposal shall contain the following at a minimum. Proposer must also address detailed requirements as specified in the Scope of Work.

- a. A written narrative describing the method or manner in which the Proposer proposes to satisfy requirements of this RFP in the most cost-effective manner. The term Proposer shall be in reference to a firm or individual responding to this solicitation.
- b. A description of the Proposer's experience in providing the same or similar services as outlined in the RFP. This description should include the names of the person(s) who will provide the services, their qualifications, and the years of experience in performing this type of work. Also, include the reference information requested in this RFP.
- c. The complete fee and cost to the City for all services outlined in this RFP.
- d. Statement should be no more than twenty-five (25) pages; single sided, standard, readable, print on standard 8.5x11 documents. Proposers shall also submit a three (3) page (maximum) executive summary. The following items will not count toward the twenty-five-page limitation: appendix, cover sheet, 3-page executive summary, resumes (resumes shall be no more than 1 page per person), and forms provided by the City for completion.
 - i. Submitting and responding to this RFP: Proposals shall be prepared simply and economically, providing a straightforward, concise description of its ability to meet the requirements for the project. Fancy bindings, colored displays, and promotional material are not required. Emphasis should be on completeness and clarity of content. All documents physically submitted should be typewritten on standard 8 ½" x 11" white papers and bound in one volume. Exceptions would be schematics, exhibits, one-page resumes, and City required forms. Limit proposal to twenty-five (25) pages or less, excluding one-page team resumes, references, and forms required by the City for completion. All proposals shall be sealed upon delivery to the City of Fayetteville.
 1. Option 1 –Electronic Submittal (*strongly encouraged*): Proposers can go to www.fayetteville-ar.gov/bids and follow the prompts to submit a proposal within the electronic bidding platform. If a proposal is submitted electronically, a physical submission is not necessary. All Proposers must register in order to be able to submit. There is no fee for registration.
 2. Option 2 – Physical Submittal: All Proposers shall submit one (1) original copy of their proposal as well as one (1) electronic copy on a properly labeled USB or other electronic media device. The electronic copy submitted shall be contained into one single electronic file and shall be identical to the hard copies provided. The use of Adobe PDF documents is strongly recommended. Files contained on an USB or electronic media shall not be restricted against saving or printing. Electronic copies shall not be submitted via e-mail to

City employees by the Proposer and shall be provided to the City in a sealed manner. FedEx, UPS, USPS, or other packages should be clearly marked with the RFP number on the outside of the mailing package.
- e. Proposals will be reviewed following the stated deadline, as shown on the cover sheet of this document. Only the names of Proposer's will be available after the deadline until a contract has been awarded by the Fayetteville City Council. All interested parties understand proposal documents will not be available until after a valid contract has been executed.
- f. Proposers shall submit a proposal based on documentation published by the Fayetteville Purchasing Division.

- g. Proposals must follow the format of the RFP. Proposers should structure their responses to follow the sequence of the RFP.
- h. Proposers shall have experience in work of the same or similar nature and must provide references that will satisfy the City of Fayetteville. Proposer shall furnish a reference list of clients for whom they have performed similar services and must provide information as requested in this document.
- i. Proposer is advised that exceptions to any of the terms contained in this RFP or the attached service agreement must be identified in its response to the RFP. Failure to do so may lead the City to declare any such term non-negotiable. Proposer's desire to take exception to a non-negotiable term will not disqualify it from consideration for award.
- j. Local time shall be defined as the time in Fayetteville, Arkansas on the due date of the deadline. Documents shall be received before the deadline time as shown by the atomic clock located in the Purchasing Division Office or electronic clock located in the City's third-party bidding software.

2. WRITTEN REQUESTS FOR INTERPRETATIONS OR CLARIFICATION:

No oral interpretations will be made to any firms as to the meaning of specifications or any other contract documents. All questions pertaining to the terms and conditions or scope of work of this proposal must be sent in writing via e-mail to the Purchasing Department. Responses to questions may be handled as an addendum if the response would provide clarification to the requirements of the proposal. All such addenda shall become part of the contract documents. The City will not be responsible for any other explanation or interpretation of the proposed RFP made or given prior to the award of the contract.

3. DESCRIPTION OF SUPPLIES AND SERVICES:

Any manufacturer's names, trade name, brand name, catalog number, etc. used in specifications are for the purpose of describing and establishing general quality levels. Such references are NOT intended to be restrictive. Proposals shall be considered for all brands that meet the quality of the specifications listed for any items.

4. RIGHTS OF CITY OF FAYETTEVILLE IN REQUEST FOR PROPOSAL PROCESS:

In addition to all other rights of the City of Fayetteville, under state law, the City specifically reserves the right to the following:

- a. The City of Fayetteville reserves the right to rank firms and negotiate with the highest-ranking firm. Negotiation with an individual Proposer does not require negotiation with others.
- b. The City of Fayetteville reserves the right to select the proposal it believes will serve the best interest of the City.
- c. The City of Fayetteville reserves the right to accept or reject any or all proposals.
- d. The City of Fayetteville reserves the right to cancel the entire request for proposal.
- e. The City of Fayetteville reserves the right to remedy or waive technical or immaterial errors in the request for proposal or in proposals submitted.
- f. The City of Fayetteville reserves the right to request any necessary clarifications, additional information or proposal data without changing the terms of the proposal.
- g. The City of Fayetteville reserves the right to make selection of the Proposer to perform the services required on the basis of the original proposals without negotiation.
- h. The City reserves the right to ask for a best and final offer from one or more Proposers. The best and final offer process is not guaranteed; therefore, Proposers shall submit and respond to this RFP on the most favorable terms available.

5. EVALUATION CRITERIA:

The evaluation criterion defines the factors that will be used by the selection committee to evaluate and score responsive, responsible and qualified proposals. Proposers shall include sufficient information to allow the selection committee to

thoroughly evaluate and score proposals. Each proposal submitted shall be evaluated and ranked by a selection committee. The contract will be awarded to the most qualified Proposer, per the evaluation criteria listed in this RFP. Proposers are not guaranteed to be ranked.

6. COSTS INCURRED BY PROPOSERS:

All expenses involved with the preparation and submission of proposals to the City, or any work performed in connection therewith, shall be borne solely by the Proposer(s). No payment will be made for any responses received, or for any other effort required of, or made by, the Proposer(s) prior to contract commencement.

7. ORAL PRESENTATION:

An oral presentation and/or interview may be requested of any firm, at the selection committee's discretion.

8. CONFLICT OF INTEREST:

- a. The Proposer represents that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance or services required hereunder, as provided in City of Fayetteville Code Section 34.26 titled "Limited Authority of City Employee to Provide Services to the City".
- b. The Proposer shall promptly notify Amanda Beilfuss, City Sr. Purchasing Agent, in writing, of all potential conflicts of interest for any prospective business association, interest, or other circumstance which may influence or appear to influence the Proposer's judgment or quality of services being provided. Such written notification shall identify the prospective business association, interest or circumstance, the nature of which the Proposer may undertake and request an opinion to the City as to whether the association, interest or circumstance would, in the opinion of the City, constitute a conflict of interest if entered into by the Proposer. The City agrees to communicate with the Proposer its opinion via e-mail or first-class mail within thirty days of receipt of notification.

9. WITHDRAWAL OF PROPOSAL:

A proposal may be withdrawn prior to the time set for the proposal submittal based on a written request from an authorized representative of the firm; however, a proposal shall not be withdrawn after the time set for the proposal.

10. LATE PROPOSAL OR MODIFICATIONS:

- a. Proposal and modifications received after the time set for the proposal submittal shall not be considered. Modifications in writing received prior to the deadline will be accepted. The City will not be responsible for misdirected bids. Proposers refer to their submission status in the online bidding portal or call the Purchasing Division at (479) 575-8220 to ensure receipt of their submittal documents prior to opening time and date listed.
- b. The time set for the deadline shall be local time for Fayetteville, AR on the date listed. All proposals shall be received in the Purchasing Division BEFORE the deadline stated. The official clock to determine local time shall be the atomic clock located in the Purchasing Division, Room 306 of City Hall, 113 W. Mountain, Fayetteville, AR.

11. CONSTITUTIONAL, STATE, AND FEDERAL COMPLIANCE REQUIREMENTS:

The laws of the State of Arkansas apply to any purchase made under this request for proposal. Proposers shall comply with all constitutional, state, and federal directives, orders and laws as applicable to this proposal and subsequent contract(s) including but not limited to Equal Employment Opportunity (EEO), Disadvantaged Business Enterprises (DBE), & OSHA as applicable to this contract.

12. PROVISION FOR OTHER AGENCIES:

Unless otherwise stipulated by the Proposer, the Proposer agrees to make available to all Government agencies, departments, municipalities, and counties, the proposal prices submitted in accordance with said proposal terms and conditions therein, should any said governmental entity desire to buy under this proposal. Eligible users shall mean all state of Arkansas agencies, the legislative and judicial branches, political subdivisions (counties, local district school boards, community colleges, municipalities, counties, or other public agencies or authorities), which may desire to purchase under the terms and conditions of the contract.

13. COLLUSION:

The Proposer, by affixing his or her signature to this proposal, agrees to the following: "Proposer certifies that their proposal is made without previous understanding, agreement, or connection with any person, firm or corporation making a proposal for the same item(s) and/or services and is in all respects fair, without outside control, collusion, fraud, or otherwise illegal action."

14. RIGHT TO AUDIT, FOIA, AND JURISDICTION:

- a. The City of Fayetteville reserves the privilege of auditing a Contractor's records as such records relate to purchases between the City and said Contractor.
- b. Freedom of Information Act: City contracts and documents prepared while performing City contractual work are subject to the Arkansas Freedom of Information Act. If a Freedom of Information Act request is presented to the City of Fayetteville, the (contractor) will do everything possible to provide the documents in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (A.C.A. §25-19-101 et. seq.). Only legally authorized photocopying costs pursuant to the FOIA may be assessed for this compliance.
- c. Legal jurisdiction to resolve any disputes shall be Arkansas with Arkansas law applying to the case.

15. CITY INDEMNIFICATION:

The successful Proposer(s) agrees to indemnify the City and hold it harmless from and against all claims, liability, loss, damage or expense, including but not limited to counsel fees, arising from or by reason of any actual or claimed trademark, patent or copyright infringement or litigation based thereon, with respect to the services or any part thereof covered by this order, and such obligation shall survive acceptance of the services and payment thereof by the City.

16. VARIANCE FROM STANDARD TERMS & CONDITIONS:

All standard terms and conditions stated in this request for proposal apply to this contract except as specifically stated in the subsequent sections of this document, which take precedence, and should be fully understood by Proposers prior to submitting a proposal on this requirement.

17. ADA REQUIREMENT FOR PUBLIC NOTICES & TRANSLATION:

Persons with disabilities requiring reasonable accommodation to participate in this proceeding/event, should call 479.521.1316 (telecommunications device for the deaf), no later than seven days prior to the deadline. Persons needing translation of this document shall contact the City of Fayetteville, Purchasing Division, immediately.

18. CERTIFICATE OF INSURANCE:

The successful bidder shall provide a Certificate of Insurance in accordance with the following guidelines, prior to commencement of any work: \$1,000,000 Commercial Liability, Statutory Worker's Compensation, and General Automotive, if applicable. SUCH CERTIFICATE SHALL LIST THE CITY OF FAYETTEVILLE AS AN ADDITIONAL INSURED. LISTING THE CITY OF FAYETTEVILLE AS A CERTIFICATE HOLDER ONLY IS NOT AN ACCEPTABLE SUBSTITUTE. CERTIFICATE OF INSURANCE MUST INCLUDE THE ENDORSEMENT SHOWING THE CITY OF FAYETTEVILLE LISTED AS AN ADDITIONAL INSURED. Insurance shall remain valid, when applicable, throughout project completion.

19. PAYMENTS AND INVOICING:

The Proposer must specify in their proposal the exact company name and address which must be the same as invoices submitted for payment as a result of award of this RFP. Further, the successful Proposer is responsible for immediately notifying the Purchasing Division of any company name change, which would cause invoicing to change from the name used at the time of the original RFP. Payment will be made within thirty days of invoice received. The City of Fayetteville is very credit worthy and will not pay any interest or penalty for untimely payments. Payments can be processed through Proposer's acceptance of Visa at no additional costs to the City for expedited payment processing. The City will not agree to allow any increase in hourly rates by the contract without PRIOR Fayetteville City Council approval.

20. CANCELLATION:

- a. The City reserves the right to cancel this contract without cause by giving thirty (30) days prior notice to the Contractor in writing of the intention to cancel or with cause if at any time the Contractor fails to fulfill or abide by any of the terms or conditions specified.

- b. Failure of the contractor to comply with any of the provisions of the contract shall be considered a material breach of contract and shall be cause for immediate termination of the contract at the discretion of the City of Fayetteville.
- c. In addition to all other legal remedies available to the City of Fayetteville, the City reserves the right to cancel and obtain from another source, any items and/or services which have not been delivered within the period of time from the date of order as determined by the City of Fayetteville.
- d. In the event sufficient budgeted funds are not available for a new fiscal period, the City shall notify the Contractor of such occurrence and contract shall terminate of the last day of the current fiscal period without penalty or expense to the City.

21. ASSIGNMENT, SUBCONTRACTING, CORPORATE ACQUISITIONS AND/OR MERGERS:

- a. The Contractor shall perform this contract. No assignment of subcontracting shall be allowed without prior written consent of the City. If a Proposer intends to subcontract a portion of this work, the Proposer shall disclose such intent in the proposal submitted as a result of this RFP.
- b. In the event of a corporate acquisition and/or merger, the Contractor shall provide written notice to the City within thirty (30) calendar days of Contractor's notice of such action or upon the occurrence of said action, whichever occurs first.

22. NON-EXCLUSIVE CONTRACT:

Award of this RFP shall impose no obligation on the City to utilize the Contractor for all work of this type, which may develop during the contract period. This is not an exclusive contract. The City specifically reserves the right to concurrently contract with other companies for similar work if it deems such an action to be in the City's best interest. In the case of multiple-phase contracts, this provision shall apply separately to each item.

23. LOBBYING:

Lobbying of selection committee members, City of Fayetteville employees, or elected officials regarding request for proposals, request for qualifications, bids or contracts, during the pendency of bid protest, by the bidder/proposer/protestor or any member of the bidder's/proposer's/protestor's staff, and agent of the bidder/proposer/protestor, or any person employed by any legal entity affiliated with or representing an organization that is responding to the request for proposal, request for qualification, bid or contract, or has a pending bid protest is strictly prohibited either upon advertisement or on a date established by the City of Fayetteville and shall be prohibited until either an award is final or the protest is finally resolved by the City of Fayetteville; provided, however, nothing herein shall prohibit a prospective/bidder/proposer from contacting the Purchasing Division to address situations such as clarification and/or questions related to the procurement process. For purposes of this provision lobbying activities shall include but not be limited to, influencing or attempting to influence action or non-action in connection with any request for proposal, request for qualification, bid or contract through direct or indirect oral or written communication or an attempt to obtain goodwill of persons and/or entities specified in this provision. Such actions may cause any request for proposal, request for qualification, bid or contract to be rejected.

24. ADDITIONAL REQUIREMENTS:

The City reserves the right to request additional services relating to this RFP from the Proposer. When approved by the City as an amendment to the contract and authorized in writing prior to work, the Contractor shall provide such additional requirements as may become necessary.

25. SERVICES AGREEMENT:

A written agreement, in substantially the form attached, incorporating the RFP and the successful proposal will be prepared by the City, signed by the successful Proposer and presented to the City of Fayetteville for approval and signature of the Mayor.

26. INTEGRITY OF REQUEST FOR PROPOSAL (RFP) DOCUMENTS:

Proposers shall use the original RFP form(s) provided by the Purchasing Division and enter information only in the spaces where a response is requested. Proposers may use an attachment as an addendum to the RFP form(s) if sufficient space is not available on the original form for the Proposer to enter a complete response. Any modifications or alterations to the original RFP documents by the Proposer, whether intentional or otherwise, will constitute grounds for rejection of such RFP response. Any such modifications or alterations a Proposer wishes to propose shall be clearly stated in the Proposer's RFP response and presented in the form of an addendum to the original RFP documents.

27. OTHER GENERAL CONDITIONS:

- a. Proposers must provide the City with their proposals signed by an employee having legal authority to submit proposals on behalf of the Proposer. The entire cost of preparing and providing responses shall be borne by the Proposer.
- b. The City reserves the right to request any additional information it deems necessary from any or all Proposers after the submission deadline.
- c. This solicitation is not to be construed as an offer, a contract, or a commitment of any kind; nor does it commit the City to pay for any costs incurred by Proposer in preparation. It shall be clearly understood that any costs incurred by the Proposer in responding to this request for proposal is at the Proposer's own risk and expense as a cost of doing business. The City of Fayetteville shall not be liable for reimbursement to the Proposer for any expense so incurred, regardless of whether or not the proposal is accepted.
- d. If products, components, or services other than those described in this bid document are proposed, the Proposer must include complete descriptive literature for each. All requests for additional information must be received within five working days following the request.
- e. Any uncertainties shall be brought to the attention to Amanda Beilfuss immediately via telephone (479.575.8220) or e-mail (abeilfuss@fayetteville-ar.gov). It is the intent and goal of the City of Fayetteville Purchasing Division to provide documents providing a clear and accurate understanding of the scope of work to be completed and/or goods to be provided. We encourage all interested parties to ask questions to enable all Proposers to be on equal terms.
- f. Any inquiries or requests for explanation in regard to the City's requirements should be made promptly to Amanda Beilfuss, City of Fayetteville, Sr. Purchasing Agent via e-mail (abeilfuss@fayetteville-ar.gov) or telephone (479.575.8220). No oral interpretation or clarifications will be given as to the meaning of any part of this request for proposal. All questions, clarifications, and requests, together with answers, if any, will be provided to all firms via written addendum. Names of firms submitting any questions, clarifications, or requests will not be disclosed until after a contract is in place.
- g. At the discretion of the City, one or more firms may be asked for more detailed information before final ranking of the firms, which may also include oral interviews.
- h. Any information provided herein is intended to assist the Proposer in the preparation of proposals necessary to properly respond to this RFP. The RFP is designed to provide qualified Proposers with sufficient basic information to submit proposals meeting minimum specifications and/or test requirements but is not intended to limit a RFP's content or to exclude any relevant or essential data.
- i. Proposers irrevocably consent that any legal action or proceeding against it under, arising out of or in any manner relating to this Contract shall be controlled by Arkansas law. Proposer hereby expressly and irrevocably waives any claim or defense in any said action or proceeding based on any alleged lack of jurisdiction or improper venue or any similar basis.
- j. The successful Proposer shall not assign the whole or any part of this Contract or any monies due or to become due hereunder without written consent of City of Fayetteville. In case the successful Proposer assigns all or any part of any monies due or to become due under this Contract, the Instrument of assignment shall contain a clause substantially to the effect that it is agreed that the right of the assignee in and to any monies due or to become due to the successful Proposer shall be subject to prior liens of all persons, firms, and corporations for services rendered or materials supplied for the performance of the services called for in this contract.
- k. The successful Proposer's attention is directed to the fact that all applicable Federal and State laws, municipal ordinances, and the rules and regulations of all authorities having jurisdiction over the services shall apply to the contract throughout, and they will be deemed to be included in the contract as though written out in full herein. The successful Proposer shall keep himself/herself fully informed of all laws, ordinances and regulations of the Federal, State, and municipal governments or authorities in any manner affecting those engaged or employed in providing these services or in any way

affecting the conduct of the services and of all orders and decrees of bodies or tribunals having any jurisdiction or authority over same. If any discrepancy or inconsistency should be discovered in these Contract Documents or in the specifications herein referred to, in relation to any such law, ordinance, regulation, order or decree, s/he shall herewith report the same in writing to the City of Fayetteville.

1. INTRODUCTION:

The City of Fayetteville (City) has one facility that contains both the Fayetteville Transfer Station and the Fayetteville Recycling Center (Fayetteville Transfer Station/Recycling Center), located at 1560 S. Happy Hollow Rd. The Transfer portion of this facility utilizes loose-fill technology and is capable of satisfying the present and future solid waste disposal needs of the City of Fayetteville. Design is expandable to allow the Fayetteville Transfer Station to serve Washington County as necessary. During the term of this contract, the City shall deliver all of the municipal, residential, and commercial solid waste streams collected by the City to the City of Fayetteville's Transfer Station. Current annual tonnage hauled from the Transfer Station is approximately

80,000. The City of Fayetteville's Transfer Station is currently permitted to allow up to 100,000 tons per year. The average outbound tonnage is 21 tons per truck and is normally between 10-16 truckloads per day.

2. SCOPE OF WORK:

a. The awarded Proposer (Contractor) shall be responsible for the performance of all services reasonably necessary to provide for the proper disposal of all residential and commercial waste generated within the City of Fayetteville. Proposer shall provide a narrative describing the proposed operations plan for ensuring that Proposer has the resources and equipment necessary to provide timely, efficient, and cost- effective disposal of the City's solid waste.

b. The Contractor shall perform the following under this contract:

- i. All solid waste received at the Fayetteville Transfer Station shall be transported to a permitted and approved disposal site.
- ii. All solid waste shall be removed from the Transfer Station by the end of each day (Monday through Saturday), including all holidays except New Year's Day, Thanksgiving Day, and Christmas Day. The first transport truck shall be at the City's Transfer Station by 5:30 AM and the last truck leaves approximately between 2:00 PM – 3:00 PM (M-F) and by 11:00 AM on Saturdays.
- iii. The City of Fayetteville, as the Transfer Station Operator, will be responsible for loading transport trailers with solid waste (payload weights no greater than that required to reach gross vehicle weight limitation set by law). However, in the interest of efficiency, the City is responsible for loading solid waste in such a way that a standard trailer with a capacity of 115 cubic yards will contain a minimum of 20 tons of solid waste.
- iv. Transporting of all solid waste shall be contained, tied, or enclosed, so that leaking, spilling, or blowing of waste is prevented.
- v. Proposer shall provide detailed inventory of assets illustrating that there is an adequate number of vehicles, trailers, and backup equipment, maintained in good physical condition. Information on all proposed labor, supervisors, maintenance, fuel, and necessary supplies to ensure the daily systematic and satisfactory performance of all services specified in this scope of work shall also be provided.

3. PROPOSAL REQUIREMENTS:

In addition to submitting the completed and signed RFP form, Proposers shall also include the following with Proposal:

- a. An itemized list of Proposer's equipment available for use on this Contract, or an itemized list of proposed equipment with proof of financial strength to procure proposed equipment upon Contract award. Contractor shall provide trucks, trailers, and any necessary equipment to dump at landfill or disposal site.
- b. A copy of most recent, certified financial statement of Proposer, (or its parent corporation if individual subsidiary or division financial statements are not prepared and/or available) certified by a certified public accountant (CPA) firm.
- c. Evidence, in form and substance satisfactory to the City of Fayetteville, that Proposer (or Proposer's subsidiary or affiliate) has been in business at least five (5) years and possesses not less than three (3) years actual operating experience in solid waste transport and/or disposal handling no less than 50,000 tons per year.
- d. Name and location of landfill or disposal site, including evidence, in form and substance satisfactory to the City of Fayetteville, that the landfill or disposal site shall have a life in excess of the Contract length and that proposed disposal site meets the requirements of EPA subtitle D, when applicable, and documentation from disposal site owner that any further district, state, and federal requirements will be met through the duration of the Contract. If disposal site other than a landfill is proposed, a copy of disposal site's permit for operation shall be included with Proposal.
- e. A copy of the Proposer's Environmental Policy Statement as well as any records of past environmental issues.
- f. A letter from a corporate surety satisfactory to the City stating that the Performance Bond(s) will be furnished by it to the person submitting the proposal in the event it is the successful proposer. Such letter is to be signed by an authorized representative of the surety together with a certified and effectively dated copy of the power of attorney attached thereto. The Contractor responsible for the transportation and disposal of solid waste received at the Fayetteville Transfer Station will be required to furnish a corporate surety bond as security for the performance of the Contract. This surety bond shall be in the amount of one hundred percent (100%) of the total negotiated price approved by Fayetteville City Council for the first year of the contract. Contractor will have ten (10) business days from Contract approval by Fayetteville City Council to provide the bond. A one hundred (100%) surety bond will be required annually with contract renewal at the estimated tonnage of the 80,000 tons. The premium for the bond(s) described above shall be paid by the Contractor. A certificate from the surety showing that the bond premium(s) is/are paid in full shall accompany the bond. The surety on the bond shall be from corporate surety company duly authorized to do business in the State of Arkansas. Bonds must be written by an "A" rated bonding company.

4. PRICING

- a. Proposals shall include all-inclusive pricing for the hauling and disposal of all solid waste received at the Fayetteville Transfer Station at a properly licensed and permitted disposal facility and for the daily transport of all solid waste received at the Fayetteville Transfer Station. The price and rates proposed shall remain firm for the first two (2) years of the contract. If there are any price increases/changes during the remainder of the Contract, this information shall be included in the Proposal as well.

5. CONTRACT FORMATION:

If the negotiation produces mutual agreement, a contract will be considered for approval by the City of Fayetteville City Council. If negotiations with the highest-ranking Proposer fail, negotiations may be initiated with the next highest-ranking Proposer until an agreement is reached. The City reserves the right to reject all offers and end the process without executing a contract.

6. CONTRACT TERMS:

The City of Fayetteville intends to enter a three (3) year contract with the awarded Proposer with the option to renew for four (4) additional three (3) year terms.

7. PROPOSAL CONTENT:

Proposals shall be prepared simply and economically, providing a straightforward, concise description its ability to meet the requirements for the project. Fancy bindings, colored displays, and promotional material are not required. Emphasis should be on completeness and clarity of content. All documents should be typewritten on standard 8 ½" x 11" white pages and bound in one

volume. Exceptions would be schematics, exhibits, or other information necessary to facilitate the City of Fayetteville's ability to accurately evaluate the proposal. Limit proposal to twenty-five (25) pages or less, excluding one-page team resumes, references, and forms required by the City for completion.

8. SELECTION CRITERIA:

The following criteria will be used by the City to evaluate and score responsive proposals. Proposers shall include sufficient information to allow the City to thoroughly evaluate and score the proposal. Each proposal submitted is not required to be ranked by the selection committee. The contract may be awarded to the most qualified firm, per the evaluation criteria listed below, based on the evaluation of the selection committee. Following the evaluation of the proposals, the Selection Committee may request that the top- ranking firm(s) make an oral presentation or be interviewed. If presentations are necessary, they will take place in Fayetteville, Arkansas. Notices will be sent by the Purchasing Division.

- 1) 20% Qualifications in Relation to Specific Project to be Performed: Information reflecting qualifications of the consultant, partners, and project team. Indicated specialized experience and technical competence of the firm in connection with the type and complexity of the service required. Subcontractors, if used, shall be listed with information on their organization.
- 2) 20% Experience, Competence, and Capacity for Performance: Information reflecting the names, titles, and qualifications (including experience and technical competence) of the major personnel assigned to this specific project.
- 3) 30% Proposed Method of Doing Work: A proposed work plan (description of how the project would be conducted as well as other facts concerning approach to scope) indicating methods and schedules for accomplishing scope of work. Include with this the amount of work presently underway.
- 4) 10% Past Performance: Previous evaluations shall be considered a significant factor. If previous evaluations with the City are not available, the professional firm's past performance records with City and others will be used, including quality of work, timely performance, diligence, and any other pertinent information. Firm will provide a list of similar jobs performed and person whom the City can contact for information.
- 5) 20% Cost/Fees: Complete costs and fees as described in this RFP and for delivery of the proposal including fiscal feasibility and financial stability. All fees shall be clearly identified with RFP response and be itemized.

City of Fayetteville
RFP 24-09, Waste Transfer and Disposal Services
SECTION C: Proposer References

The following information is required from all firms so all statements of qualification may be reviewed and properly evaluated:

COMPANY NAME: Waste Management of Arkansas, Inc.

NUMBER OF YEARS IN BUSINESS: Since 1983 HOW LONG IN PRESENT LOCATION: Over 40 years

TOTAL NUMBER OF CURRENT EMPLOYEES: 100+ FULL TIME _____ PART TIME _____

NUMBER OF EMPLOYEES PLANNED FOR THIS CONTRACT: 15+ FULL TIME _____ PART

TIME _____

PLEASE LIST FOUR (4) REFERENCES THAT YOU HAVE PREVIOUSLY PERFORMED CONTRACT SERVICES FOR WITHIN THE PAST FIVE (5) YEARS (All fields must be completed):

1. City of Dardanelle

COMPANY NAME

Dardanelle AR

CITY, STATE, ZIP

Jimmy Witt, Mayor

CONTACT PERSON

479-477-0401

TELEPHONE

n/a

FAX NUMBER

Jwitt.mayor@dardanelle.com

E-MAIL ADDRESS

2. City of Siloam Springs

COMPANY NAME

Siloam Springs, AR 72761

CITY, STATE, ZIP

Steve Gorsczvzk, Public Works Director

CONTACT PERSON

479-238-0921

TELEPHONE

n/a

FAX NUMBER

water@siloamsprings.com

E-MAIL ADDRESS

3. Boston Mountain Solid Waste District

COMPANY NAME

Prairie Grove, AR 72753

CITY, STATE, ZIP

Robin Reed, Director

CONTACT PERSON

479-846-3005

TELEPHONE

n/a

FAX NUMBER

reed@bmswd.com

E-MAIL ADDRESS

4. Marck Recycling and Waste

COMPANY NAME

Rogers, AR 72756

CITY, STATE, ZIP

Wes Dougherty

CONTACT PERSON

479-831-8940

TELEPHONE

479-831-8940

FAX NUMBER

wdougherty@marck.net

E-MAIL ADDRESS

1. DISCLOSURE INFORMATION

- a. Proposer must disclose any possible conflict of interest with the City of Fayetteville, including, but not limited to, any relationship with any City of Fayetteville employee. Proposer response must disclose if a known relationship exists between any principal or employee of your firm and any City of Fayetteville employee or elected City of Fayetteville official.
 - i. If, to your knowledge, no relationship exists, this should also be stated in your response. Failure to disclose such a relationship may result in cancellation of a purchase and/or contract as a result of your response. This form must be completed and returned in order for your bid/proposal to be eligible for consideration.

PLEASE CHECK ONE OF THE FOLLOWING TWO OPTIONS, AS IT APPROPRIATELY APPLIES TO YOUR FIRM:

x 1) NO KNOWN RELATIONSHIP EXISTS

_____ 2) RELATIONSHIP EXISTS (Please explain): _____

- b. I certify that; as an officer of this organization, or per the attached letter of authorization, am duly authorized to certify the information provided herein is accurate and true; and my organization shall comply with all State and Federal Equal Opportunity and Non-Discrimination requirements and conditions of employment.
- c. Proposer agrees that they shall have a current, valid registration with the Arkansas Secretary of State at time of RFP deadline OR be able to provide proof of registration before recommendation of award to Fayetteville City Council.
- d. Pursuant Arkansas Code Annotated §25-1-503, the Contractor agrees and certifies that they do not currently boycott Israel and will not boycott Israel during any time in which they are entering into, or while in contract, with any public entity as defined in §25-1-503. If at any time during contract the contractor decides to boycott Israel, the contractor must notify the contracted public entity in writing.
- e. Pursuant Arkansas Code Annotated §25-1-1002, the Contractor agrees and certifies that they do not currently boycott Energy, Fossil Fuel, Firearms, and Ammunition Industries during any time in which they are entering into, or while in contract, with any public entity as defined in §25-1-1002. If at any time during the contract the contractor decides to boycott Energy, Fossil Fuel, Firearms, and/or Ammunition Industries, the contractor must notify the contracted public entity in writing.

2. PRIMARY CONTACT INFORMATION

At the discretion of the City, one or more firms may be asked for more detailed information before final ranking of the firms, which may also include oral interviews. NOTE: Each Proposer shall submit to the City a primary contact name, e-mail address, and phone number (preferably a cell phone number) where the City selection committee can call for clarification or interview via telephone.

Corporate Name of Firm: Waste Management of Arkansas, Inc.

Primary Contact: James Vernon

Title of Primary Contact: Public Sector Manager

Phone#1 (cell preferred): 479-213-3650

E-Mail Address: jvernon@wm.com

3. ACKNOWLEDGEMENT OF ADDENDA

Acknowledge receipt of addenda for this invitation to bid, request for proposal, or request for qualification by signing and dating below. All addendums are hereby made a part of the bid or RFP documents to the same extent as though it were originally included therein. Proposers/Bidders should indicate their receipt of same in the appropriate blank listed herein. Failure to do so may subject Contractor to disqualification.

ADDENDUM NO.	SIGNATURE AND PRINTED NAME	DATE ACKNOWLEDGED
RFP 24-09 Addendum 1	<i>James Vernon</i> , James Vernon	5/31/2024
RFP 24-09 Addendum 2	<i>James Vernon</i> , James Vernon	6/04/2024

4. DEBARMENT CERTIFICATION:

- As an interested party on this project, you are required to provide debarment/suspension certification indicating compliance with the below Federal Executive Order. Certification can be done by completing and signing this form.
- Federal Executive Order (E.O.) 12549 "Debarment and Suspension" requires that all contractors receiving individual awards, using federal funds, and all sub-recipients certify that the organization and its principals are not debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency from doing business with the Federal Government.
- Signature certifies that neither you nor your principal is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

5. SIGNATURE SUBMITTAL:

NAME OF COMPANY: Waste Management of Arkansas, Inc.

PHYSICAL ADDRESS: 1041 Arbor Acres Avenue, Springdale, AR 72762

MAILING ADDRESS: Same

TAX ID #: 04-2814811 AR. SECRETARY OF STATE FILING #: 100067636

PHONE: 479-213-3650 FAX:

E-MAIL: jvernon@wm.com

By submitting your response, you certify that you are authorized to represent and bind your company :

SIGNATURE: Jamie Vernon

PRINTED NAME: James Vernon

TITLE: Public Sector Manager DATE: 5/30/2024

END OF RFP DOCUMENT

RFP 24-09, Addendum 1



Date: Friday, May 24, 2024

To: All Prospective Vendors

From: Amanda Beifuss - 479.575.8220 - abeifuss@fayetteville-ar.gov

RE: RFP 24-09, Waste Disposal and Transfer Services

This addendum is hereby made a part of the contract documents to the same extent as though it were originally included therein. Interested parties should indicate their receipt of same in the appropriate blank of the RFP. **PROPOSERS SHOULD ACKNOWLEDGE THIS ADDENDUM ON THE DESIGNATED LOCATION ON THE BID PORTAL/FORM.**

1. A non-mandatory pre-proposal conference and site visits were held on Wednesday, May 22, 2024 at 3:00 PM on-site at the Recycling and Trash Division. The listing of attendees is also attached to this addendum for disclosure to all interested parties.

a. Attendees:

i. City of Fayetteville:

1. Les McLaugh, Purchasing Director
2. Kenny Fitch, Purchasing Agent
3. Daniel Pickett, Supervisor
4. Brandon Bekemeier, Asst. Operations Manager
5. Drew Cook, Operations Manager
6. Peter Nierengarten, Environmental Director

ii. Vendors:

1. CARDS
2. Waste Management

2. QUESTIONS - The following questions have been received and have been answered by the corresponding department:

- a. Question: Will alternate waste disposal and transport options be reviewed/considered? If so, where should that be located in the Proposal?

i. Answer: Yes, but the transportation option must be compatible with the City's existing transfer station operations. Anywhere in the Proposal is acceptable as long as it is clearly labeled as an alternate option.

- b. Question: What is the current average loading time?

i. Answer: The average loading time is between 30 minutes - 1 hour.

City of Fayetteville, AR
RFP 24-09, Addendum 1

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Telecommunications Device for the Deaf TDD (479) 521-1316

113 West Mountain - Fayetteville, AR 72701

City of Fayetteville, AR

RFP 24-09, Addendum 1

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- c. Question: What is the estimated start date?

i. Answer: The current contract is scheduled to expire end of day December 31, 2024; therefore, it is anticipated the new contract with the awarded Proposer will begin start of day January 2, 2025.

- d. Question: What is the current contract expiration date?

i. Answer: The current contract is scheduled to expire end of day December 31, 2024; therefore, it is anticipated the new contract with the awarded Proposer will begin start of day January 2, 2025.

3. Proposers are encouraged to supply any additional services offered in their Proposal

*Deadline -
Thur. June 6 @ 2



CITY OF
FAYETTEVILLE
ARKANSAS

City of Fayetteville, Arkansas

Attendance Sheet

BID/RFP/RFQ #: 24-09

Description: Waste Transfer and Disposal Services

Function (circle one): Bid Opening, Selection Committee Meeting, Pre-Bid Interview

Date: 05 / 22 / 2024

Time: 3:00pm

City staff e-mail includes "@fayetteville-ar.gov"

Name	Company	Title	Phone	Email
1. Jason Fitzgerald	CARD	Director of GA	501-607-4098	jfitz@cardrecycling.com
2. Jamie Vernon	WM	Public Sector Affairs	479-217-3650	j.vern@wm.com
3. KENNY FITCH	COF	PURCHAGENT	575-8258	kfitch@
4. Blake Small	WM	District Manager	870-510-0174	bsmall@wm.com
5. Les McLaugh	COF			
6. Daniel Pickett	CITY OF FAYETTEVILLE	9VP or Vicer	479-601-5969	DPickett@fayetteville-ar.gov
7. Brandon Bekemeier	COF	Post operations manager	479-601-9317	bbekemeier@fayetteville-ar.gov
8. Andrew Cook	COF	Operations Mgr.	479-601-5719	acook@fayetteville-ar.gov
9. Peter Nierengarten	COF	Environmental Dir.	479-601-7834	peterengarten@fayetteville-ar.gov
10.				
11.				
12.				
13.				
14.				
15.				
16.				
17.				
18.				
19.				
20.				

RFP 24-09, Addendum 2



CITY OF
FAYETTEVILLE
ARKANSAS

Date: Tuesday, June 4, 2024

To: All Prospective Vendors

From: Amanda Beilfuss – 479.575.8220 – abeilfuss@fayetteville-ar.gov

RE: RFP 24-09, Waste Disposal and Transfer Services

This addendum is hereby made a part of the contract documents to the same extent as though it were originally included therein. Interested parties should indicate their receipt of same in the appropriate blank of the RFP. **PROPOSERS SHOULD ACKNOWLEDGE THIS ADDENDUM ON THE DESIGNATED LOCATION ON THE BID PORTAL/FORM.**

1. The current RFP Proposal deadline has been extended. All Proposals are due Tuesday, June 11, 2024, no later than 2:00 PM, local time.
2. The following language is in the current Contract with Waste Management, regarding current fees:
 - B. On January 1, 2020, the City agrees to pay Waste Management \$41.22 per ton for transportation, hauling and disposal. Beginning on January 1, 2021 and on each January 1 thereafter, the per ton price shall be adjusted by the percentage that the Consumer Price Index (CPI-U), US City Average for All Urban Consumers (current series), Water, Sewer, Trash Collection, Not Seasonally Adjusted, Base Period December 1997=100 Series ID CUUR0000SEHG (CPI) (<https://beta.bls.gov/dataViewer/view/timeseries/CUUR0000SEHG>) has **increased during the preceding twelve-month period for which the data has been published.** If the above CPI ceases to be published, the parties agree to substitute another equally authoritative measure of change in the purchasing power of the U.S. dollar as may be then available so as to carry out the intent of this provision. Waste Management shall coordinate with the City in writing prior to any implementation of any CPI-U price adjustment. Such coordination shall include the amount of the price adjustment, documentation substantiating the CPI published numbers, and the date the adjusted price takes effect. The City and Waste Management shall mutually agree on any increase, including calculation accuracy on CPI or other equally authoritative measure as applicable, prior to any price adjustment.

C. Price adjustment shall be calculated using the following:

CPI for current period, Less CPI for previous period Equals index point change. Divide index point change by previous period CPI. That result shall be multiplied by 100 to equal the percent change in the price per ton rate. Example, provided by the Bureau of Labor Statistics, is shown below or can be found at <https://www.bls.gov/cpi/factsheets/escalation.htm>:

CPI for current period	232.945
Less CPI for previous period	229.815
Equals index point change	3.130
Divided by previous period CPI	229.815
Equals	0.0136
Result multiplied by 100	0.0136 x 100
Equals percent change	1.4%

3. Payments issued to Waste Management to date, for services under this Contract for October 2023 – March 2024:

October 2023	\$ 300,287.10
November 2023	\$ 292,570.00
December 2023	\$ 260,248.77
January 2024	\$ 281,118.64
February 2024	\$ 289,987.82
March 2024	\$ 282,040.15

PROPOSAL CONTENT:

Proposals shall be prepared simply and economically, providing a straightforward, concise description its ability to meet the requirements for the project. Fancy bindings, colored displays, and promotional material are not required. Emphasis should be on completeness and clarity of content. All documents should be typewritten on standard 8 ½" x 11" white pages and bound in one volume. Exceptions would be schematics, exhibits, or other information necessary to facilitate the City of Fayetteville's ability to accurately evaluate the proposal. Limit proposal to twenty-five (25) pages or less, excluding one-page team resumes, references, and forms required by the City for completion.

3. PROPOSAL REQUIREMENTS:

In addition to submitting the completed and signed RFP form, Proposers shall also include the following with Proposal:

Operating Plan:

Waste Management (WM) is presenting a proposal to engage MBI for the transportation of all solid waste from the Fayetteville Transfer Station. MBI maintains all licenses, insurance, and permits to effectively execute this task. Additionally, MBI will have the necessary equipment and adequate backup equipment to handle the anticipated 80,000 tons per year of solid waste generated by the City of Fayetteville.

MBI commits to ensuring that trucks and trailers are present at the City's Transfer Station by 5:30 AM on each operating day. It is important to note that WM's Eco-Vista Landfill normally operates from 6:00 AM to 5:00 PM, Monday through Friday. However, the landfill has the necessary permits to extend operations from 5:00 AM to 9:00 PM, if required, to cater to the needs of the City of Fayetteville's Transfer Station in the case of unforeseen circumstances.

The transportation of solid waste will be carried out in a manner that prevents leaking, spilling, or blowing of waste by ensuring that all waste is properly contained, tied, or enclosed during transportation. Once the trucks have been loaded at the City's Transfer Station, MBI will transport the loads to the Eco-Vista Landfill.

Upon reaching the Eco-Vista Landfill, all loads will be accurately weighed and ticketed to determine the precise amount of solid waste being transported. The truck will then proceed to the designated disposal unit where the solid waste will be properly discharged from the trailer. After the discharge, the truck will return to the City's Transfer Station, and the waste will be spread and compacted in the most space-efficient manner possible.

a. An itemized list of Proposer's equipment available for use on this Contract, or an itemized list of proposed equipment with proof of financial strength to procure proposed equipment upon Contract award. Contractor shall provide trucks, trailers, and any necessary equipment to dump at landfill or disposal site.

WM At-a-Glance

People	Operations				
48,500 team members	255 solid waste landfills	5 hazardous waste landfills	507 hauling facilities	340 transfer facilities	\$29.1B asset base
Recycling Facilities					
52 single-stream recycling facilities					
30 commercial facilities					
12 bale/transfer/buy-back/ dedicated customer processing facilities					
42 organics facilities					
4 CORE® organics processing facilities					
9 construction and demolition recycling facilities					
Energy					
10,388 alternative fuel vehicles					
171 natural gas fueling stations					
144 landfill gas-to-energy facilities					
102 landfill gas-to-electricity facilities					
26 landfill gas-to-fuel facilities					
Environmental Conservation					
75 certified wildlife habitat programs					
63 pollinator programs					
185 active habitat, species, and education certified projects					
14,709 acres actively managed for wildlife preservation					
Community Vitality					
\$14.2M in charitable giving	\$1.2M in-kind services donated	860 community events hosted and/or participated in by WM	57,565 people participated in WM-hosted education and community betterment activities		

Unit No	Description	Tech Spec	Asset Cat	Assett Class	Activity	MCC	User Class 1
610370	2016 FORD F150	16FDF15UPU	PU	SUPPRT	400	VELD60M	SUPP 4000
611479	2014 FORD F250	14FDF25UPU	PU	SUPPRT	400	VELD60M	SUPP 4000
612437	2003 FORD F150	03FDF15UPU	PU	SUPPRT	400	VELD60M	SUPP 2600
674453	2007 STERLING ACTERRA	07STACTDST	ST	SUPPRT	400	VEHD600	SUPP 2600
675043	2014 FORD F550	14FDF55DST	ST	SUPPRT	400	VELD60M	SUPP 2600
807553	2018 CAT D8T	18CAD8TDD8	TTT	HEAV	400	EQHVV XHACQ	HEAV 2600
807559	2018 KOMATSU D51	18KOD51DD5	TTT	HEAV	400	EQHVV XHACQ	HEAV 2600
807693	2022 CAT D6 XE LGP	22CAD6XDDT	TTT	HEAV	400	EQHVV XHORG	HEAV 2600
820195	2018 CAT 826K	18CA82KD82	LFCOM	HEAV	400	EQHVV XH	HEAV 2600
820213	2018 CAT 836K	18CA83KDLC	LFCOM	HEAV	400	EQHVV XH	HEAV 2600
825303	2008 CAT 735	08CA735DOH	OHT	HEAV	400	EQHVV XH	HEAV 2600
830737	2012 CAT 300	12CA308DHX	HEX	HEAV	400	EQHVV XH	HEAV 2600
830778	2007 CAT 315CL	07CAVCLDHX	HEX	HEAV	400	EQHVV XH	HEAV 2600
833784	2018 KOMATSU PC360LC11	18KOPC1DHX	HEX	HEAV	400	EQHVV XH	HEAV 2600
833831	2016 CAT 336FL	16CA36FDHX	HEX	HEAV	400	EQHVV XHREP	HEAV 2600
833857	2019 CAT 315FLCR	19CA31FDHX	HEX	HEAV	400	EQHVV XHORG	HEAV 2600
845533	2015 CAT 4202IT	15CA42FDBH	BHL	HEAV	400	EQHVV XH	HEAV 2600
846178	1983 CAT 12G	83CA12GDMG	MG	HEAV	400	EQHVV XH	HEAV 2600
847560	2016 NEW HOLLAN UNKNOWN	16NHT4120DA	AGT	SUPPRT	400	EQHVV XH	SUPP 4000
852974	2015 FORD F750	15FDF75DWT	WT	HEAV	400	HH400	SUPP
898423	2019 VOLVOCE A25G	19VO25GDOH	OHT	HEAV	400	EQHVV XHREP	HEAV 2600
898504	2022 VOLVOCE A40G	22VO40GDOH	OHT	HEAV	400	EQHVV XHORG	HEAV 4000
905718	2013 SULLAIR 185DPQ	13S5185DPW	POWER	SUPPRT	400	EQSUP XH	SUPP 2600

Unit Inventory Report

Mr. Bults Inc.

Unit	Shop	Description	License	Year	Make	Model	Serial #	Activity	Cost Code	Util Base	Last Reading	Meter Date
1830	210	2016 Kenworth T880	P862327	2016	KNWRT	T-880	1XSKZD49XDGJ470525	FAIRING ONLY	20	ODOMETER	607200	4/16/2024
1903	210	2016 Kenworth T880	P898726	2016	KNWRT	T-880	1XSKZD49XSGJ470598	FAIRING ONLY	20	ODOMETER	414436	4/16/2024
1927	210	2017 Kenworth T880	P904785	2017	KNWRT	T-880	1XSKZD49XAHJ126682	FAIRING ONLY	20	ODOMETER	400169	4/16/2024
2601	210	2020 Kenworth T880	P1056099	2020	KNWRT	T-880	1XSKZD49XBL306644	FAIRING ONLY	20	ODOMETER	134883	5/27/2024
2603	210	2020 Kenworth T880	P1056101	2020	KNWRT	T-880	1XSKZD49X1H306646	FAIRING ONLY	20	ODOMETER	256952	5/8/2024
2655	210	2021 Freightliner	P1086688	2021	FRGHT	CASCADIA	3AKJHTFM7MSM3395	FAIRING ONLY	20	ODOMETER	274734	3/18/2024
2671	210	2022 Freightliner	P1114660	2022	FRGHT	CASCADIA	3AKJHTFM2NDNH3445	FAIRING ONLY	20	ODOMETER	152179	5/23/2024
2667	210	2022 Freightliner	P1120793	2022	FRGHT	CASCADIA	3AKJHTFM8NDNH3465	FAIRING ONLY	20	ODOMETER	150996	5/27/2024
2688	210	2022 Freightliner	P1120794	2022	FRGHT	CASCADIA	3AKJHTFM3NDNH3468	FAIRING ONLY	20	ODOMETER	191238	4/11/2024
2806	210	2023 Freightliner	P1180866	2023	FRGHT	CASCADIA	3AKJHTFM4PSNW7374	FAIRING ONLY	20	ODOMETER	80012	5/24/2024
2844	210	2024 Freightliner	P1196700	2024	FRGHT	CASCADIA	3AKJHTFM3RDUZ3128	FAIRING ONLY	20	ODOMETER	79344	5/27/2024
3095	210	2012 Phelps Tipping		2012	PHELPS	L39FBS63	12-3736-D-01	LF TIPPER	23	HOUR	560	5/13/2024
3273	210	1967 Allis Chalmers		1967	ALLCH	ACC30LPS	AMD101653	FORKLIFT	29			
3328	210	2017 Toyota Forklift		2017	TOYOT	8FGU25	82883	FORKLIFT	29	HOUR	1922	4/30/2024
336	210	2000 Kenworth T800B	P902977	2000	KNWRT	T-880	1NKDLU9X8YR835835	WETKIT/FAIR	20	ODOMETER	313006	4/23/2024
3460	210	2009 Volvo L150F		2009	VOLVO	L150F	L150FV14527	LOADING	22	HOUR	22348	4/2/2024
3720	210	2015 Dodge 3500	136621F	2015	DODGE	3500	3C7WRSAL5FG545753	SRV TRK	24	ODOMETER	255100	5/27/2024
4000	210	2021 Dodge 1500	3246504B	2021	DODGE	1500	3C6JR6DG3MG692879	STD PICKUP	24	ODOMETER	56900	5/27/2024
T1210	210	2006 Titan Tipper	584674ST	2006	TITAN	TIP48F2AXL	2K9TP1L246H035373	TIPP	21	DAYS	0	4/8/2024
T1860	210	2009 Titan Tipper	586608ST	2009	TITAN	TIP48F2AXL	2TVTP1L299000005	TIPP	21	DAYS	0	4/8/2024
T1922	210	2007 Titan Tipper	360143ST	2007	TITAN	TIP48F2AXL	2TVTP1L2270000294	TIPP	21	DAYS	0	4/8/2024
T2446	210	2006 Titan Tipper	445906ST	2006	TITAN	TIP48F2AXL	2TVTP1L2960000565	TIPP	21	DAYS	0	3/15/2024
T2463	210	2006 Titan Tipper	445957ST	2006	TITAN	TIP48F2AXL	2TVTP1L2960000582	TIPP	21	DAYS	0	3/15/2024
T3342	210	2015 Titan Tipper	540427ST	2015	TITAN	TIP48F2AXL	2TVTP4827FD000493	TIPP	21	DAYS	0	3/18/2024
T3423	210	2015 Titan Tipper	554316ST	2015	TITAN	TIP48F2AXL	2TVTP4821FD000781	TIPP	21	DAYS	0	4/3/2024
T3602	210	2016 Titan Tipper	575077ST	2016	TITAN	TIP48F2AXL	2TVTP4828GD000536	TIPP	21	DAYS	0	4/16/2024
T4041	210	2019 Titan Tipper	694378ST	2019	TITAN	TIP48F2AXL	2TVTP4826KD000706	TIPP	21	DAYS	0	4/3/2024
T4312	210	2009 Wabash Van	711578ST	2009	WABSH	VAN53F2A	1JJV532W69L317866	VAN	21	DAYS	0	3/14/2024
T4313	210	2009 Wabash Van	711577ST	2009	WABSH	VAN53F2A	1JJV532W69L318203	VAN	21	DAYS	0	4/8/2024
T867	210	2004 Titan Tipper	238642ST	2004	TITAN	TIP48F2AXL	2K9TIF1L284H035020	TIPP	21	DAYS	0	4/16/2024
T994	210	2005 Titan Tipper	261936ST	2005	TITAN	TIP48F2AXL	2K9TIF1L285H035049	TIPP	21	DAYS	0	4/16/2024
REPORT TOTALS:												
TOTAL NUMBER OF UNITS:		31										
TOTAL RPT ONLY UNITS:		0										
TOTAL MISC. UNITS:		0										

Financial Strength: The Foundation for Our Commitment

Revenue in 2022 was \$19.7 billion, and WM has an asset base of \$31.4 billion. The company generates strong and consistent cash flow and has access to an extensive line of credit.

WM's financial strength is the foundation for our commitment to serve our customers, perform our obligations, and protect the environment in carrying out our broad services.

WM has achieved solid investment-grade credit ratings from three major rating agencies. Most recently, the company has been assigned ratings of A-/A-2 by Standard & Poor's, BBB+ by Fitch, and Baa1 by Moody's. The ratings are based on expectations that management will maintain good liquidity, pursue a moderate financial policy, and allocate capital in a disciplined manner. The credit outlook from each agency for WM is characterized as stable.

WM's financial strength, as summarized above, gives Fayetteville assurance that we can and will fulfill our obligations.

Full financial results are available on our website at investors.wm.com.

- WM is committed and financially able to perform all operations in full compliance with applicable federal, state, and local regulations and to provide clear documentation of that compliance.
- WM offers the most extensive network providing waste management services in North America, including transportation, disposal, treatment, recovery, remediation, waste identification, and several other specialty services. This network enables us to provide a single source of responsibility, from transportation through disposal of waste.
- Typically, new capital requirements are internally financed by WM using cash flow from existing operations - freeing our equipment and facility investments from the timelines and terms of third-party creditors.

WM's financial strength helps us to continually advance services for all of the customers we serve, including Fayetteville, and we are committed to maintaining that strength.

As a wholly-owned, indirect subsidiary of Waste Management, Inc., Waste Management of Arkansas, Inc. (WM) does not report financial results. All financial reporting occurs through our parent entity. As a publicly traded company, WM is held to the most stringent regulations for accurate and timely financial disclosure. Please see the following pages for the last two years of financial statements (2021-2022).

b. A copy of most recent, certified financial statement of Proposer, (or its parent corporation if individual subsidiary or division financial statements are not prepared and/or available) certified by a certified public accountant (CPA) firm.

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Board of Directors and Stockholders of Waste Management, Inc.

Opinion on Internal Control over Financial Reporting

We have audited Waste Management, Inc.'s internal control over financial reporting as of December 31, 2022, based on criteria established in Internal Control-Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (2013 framework) (the COSO criteria). In our opinion, Waste Management, Inc. (the Company) maintained, in all material respects, effective internal control over financial reporting as of December 31, 2022, based on the COSO criteria.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States) (PCAOB), the 2022 consolidated financial statements of the Company, and our report dated February 7, 2023 expressed an unqualified opinion thereon.

Basis for Opinion

The Company's management is responsible for maintaining effective internal control over financial reporting and for its assessment of the effectiveness of internal control over financial reporting included in the accompanying Management's Report on Internal Control Over Financial Reporting. Our responsibility is to express an opinion on the Company's internal control over financial reporting based on our audit. We are a public accounting firm registered with the PCAOB and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audit in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether effective internal control over financial reporting was maintained in all material respects.

Our audit included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, testing and evaluating the design and operating effectiveness of internal control based on the assessed risk, and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion.

Definition and Limitations of Internal Control Over Financial Reporting

A company's internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. A company's internal control over financial reporting includes those policies and procedures that (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company's assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

/s/ ERNST & YOUNG LLP

Houston, Texas
February 7, 2023

WASTE MANAGEMENT, INC.

CONSOLIDATED BALANCE SHEETS
(In Millions, Except Share and Par Value Amounts)

	<u>December 31,</u>	
	<u>2022</u>	<u>2021</u>
ASSETS		
Current assets:		
Cash and cash equivalents	\$ 351	\$ 118
Accounts receivable, net of allowance for doubtful accounts of \$26 and \$25, respectively	2,461	2,278
Other receivables, net of allowance for doubtful accounts of \$7 and \$8, respectively	291	268
Parts and supplies	164	135
Other assets	284	270
Total current assets	<u>3,551</u>	<u>3,069</u>
Property and equipment, net of accumulated depreciation and depletion of \$21,627 and \$20,537, respectively	15,719	14,419
Goodwill	9,323	9,028
Other intangible assets, net	827	898
Restricted funds	348	348
Investments in unconsolidated entities	578	432
Other assets	1,021	903
Total assets	<u>\$ 31,367</u>	<u>\$ 29,097</u>
LIABILITIES AND EQUITY		
Current liabilities:		
Accounts payable	\$ 1,766	\$ 1,375
Accrued liabilities	1,625	1,428
Deferred revenues	589	571
Current portion of long-term debt	414	708
Total current liabilities	<u>4,394</u>	<u>4,082</u>
Long-term debt, less current portion	14,570	12,697
Deferred income taxes	1,733	1,694
Landfill and environmental remediation liabilities	2,700	2,373
Other liabilities	1,106	1,125
Total liabilities	<u>24,503</u>	<u>21,971</u>
Commitments and contingencies (Note 10)		
Equity:		
Waste Management, Inc. stockholders' equity:		
Common stock, \$0.01 par value; 1,500,000,000 shares authorized; 630,282,461 shares issued	6	6
Additional paid-in capital	5,314	5,169
Retained earnings	13,167	12,004
Accumulated other comprehensive income (loss)	(69)	17
Treasury stock at cost, 222,396,166 and 214,158,636 shares, respectively	<u>(11,569)</u>	<u>(10,072)</u>
Total Waste Management, Inc. stockholders' equity	6,849	7,124
Noncontrolling interests	15	2
Total equity	<u>6,864</u>	<u>7,126</u>
Total liabilities and equity	<u>\$ 31,367</u>	<u>\$ 29,097</u>

See Notes to Consolidated Financial Statements.

WASTE MANAGEMENT, INC.

CONSOLIDATED STATEMENTS OF OPERATIONS
(In Millions, Except per Share Amounts)

	Year Ended December 31,		
	2022	2021	2020
Operating revenues	\$ 19,698	\$ 17,931	\$ 15,218
Costs and expenses:			
Operating	12,294	11,111	9,341
Selling, general and administrative	1,938	1,864	1,728
Depreciation, depletion and amortization	2,038	1,999	1,671
Restructuring	1	8	9
(Gain) loss from divestitures, asset impairments and unusual items, net	62	(16)	35
	<u>16,333</u>	<u>14,966</u>	<u>12,784</u>
Income from operations	3,365	2,965	2,434
Other income (expense):			
Interest expense, net	(378)	(365)	(425)
Loss on early extinguishment of debt, net	—	(220)	(53)
Equity in net losses of unconsolidated entities	(67)	(36)	(68)
Other, net	(2)	5	5
	<u>(447)</u>	<u>(616)</u>	<u>(541)</u>
Income before income taxes	2,918	2,349	1,893
Income tax expense	678	532	397
Consolidated net income	2,240	1,817	1,496
Less: Net income (loss) attributable to noncontrolling interests	2	1	—
Net income attributable to Waste Management, Inc.	<u>\$ 2,238</u>	<u>\$ 1,816</u>	<u>\$ 1,496</u>
Basic earnings per common share	<u>\$ 5.42</u>	<u>\$ 4.32</u>	<u>\$ 3.54</u>
Diluted earnings per common share	<u>\$ 5.39</u>	<u>\$ 4.29</u>	<u>\$ 3.52</u>

CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME
(In Millions)

	Year Ended December 31,		
	2022	2021	2020
Consolidated net income	\$ 2,240	\$ 1,817	\$ 1,496
Other comprehensive income (loss), net of tax:			
Derivative instruments, net	3	9	15
Available-for-sale securities, net	(24)	(6)	11
Foreign currency translation adjustments	(65)	(28)	20
Post-retirement benefit obligations, net	—	3	1
Other comprehensive income (loss), net of tax	<u>(86)</u>	<u>(22)</u>	<u>47</u>
Comprehensive income	2,154	1,795	1,543
Less: Comprehensive income (loss) attributable to noncontrolling interests	2	1	—
Comprehensive income attributable to Waste Management, Inc.	<u>\$ 2,152</u>	<u>\$ 1,794</u>	<u>\$ 1,543</u>

See Notes to Consolidated Financial Statements.

c. Evidence, in form and substance satisfactory to the City of Fayetteville, that Proposer (or Proposer's subsidiary or affiliate) has been in business at least five (5) years and possesses not less than three (3) years actual operating experience in solid waste transport and/or disposal handling no less than 50,000 tons per year.

WM has provided Waste Disposal and Hauling services to the City of Fayetteville since 2009. For each full calendar year of those services, WM managed the hauling and disposal of over 50,000 tons per year at WM operated landfills.

**City of Fayetteville
Account History - Tons Received at Eco Vista**

Year	Annual Tons
2009	12793.29
2010	50728.74
2011	54668.1
2012	58910.91
2013	62252.11
2014	60837.31
2015	72826.39
2016	76166.64
2017	76052.36
2018	79453.49
2019	82447.59
2020	81101.1
2021	77137.28
2022	77676.64
2023	46013.73

d. Name and location of landfill or disposal site, including evidence, in form and substance satisfactory to the City of Fayetteville, that the landfill or disposal site shall have a life in excess of the Contract length and that proposed disposal site meets the requirements of EPA subtitle D, when applicable, and documentation from disposal site owner that any further district, state, and federal requirements will be met through the duration of the Contract. If disposal site other than a landfill is proposed, a copy of disposal site's permit for operation shall be included with Proposal.

Eco Vista Landfill

Eco Vista Landfill is a permitted municipal solid waste landfill that opened in 1981. The facility is permitted by the Tennessee Department of Environment and Conservation. The facility currently accepts Asbestos-Friable/Non-Friable, Auto Shredder Fluff, Biosolids, Construction & Demolition Debris, Municipal Solid Waste, Sludges, Soils, Yard/Green Waste.

Eco Vista Landfill
2210 Waste Management Drive
Springdale AR 72762
Hours: 6:00 a.m. to 5:00 p.m. Monday-Friday;
Closed Saturday and Sunday
Observed Holidays:
New Years Day, Thanksgiving Day, Christmas Day

Permits

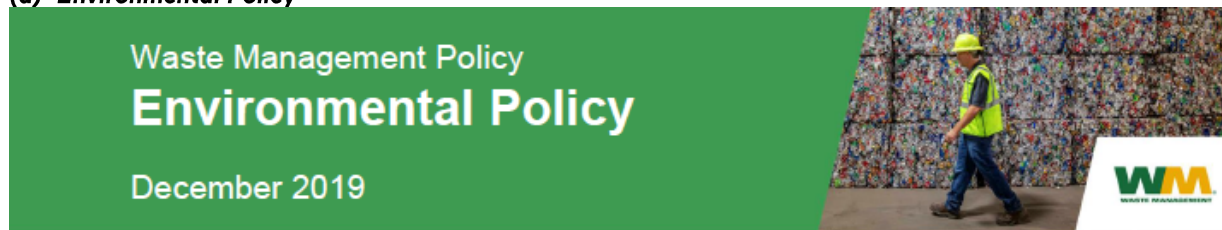
- Air Permit: 1884-AOP-R6
- Compost Permit: 0013-SCYW
- NPDES Permit: ARG160045, ARR000231
- Solid Waste Permit Class 1: 290-S1-R3
- Solid Waste Permit Class 4: 290-S4-R1
-

Acceptable waste can be brought via walking floor trailers, tippers, dump trucks. Frameless trucks are not permitted.

Offloading assistance is not provided. This location does not accept hazardous waste. Eco Vista has an estimated landfill capacity of 12 years of airspace remaining.

- e. A copy of the (a)Proposer's Environmental Policy Statement as well as any
(b) records of past environmental issues.

(a) Environmental Policy



PURPOSE

To communicate Management objectives for commitment to human health and the environment. All Waste Management owned, operated or controlled operations share responsibility to further the goals of this policy.

POLICY

Waste Management is committed to protecting human health and the environment. This commitment is a keystone of all that we do, reflected in the services we provide to customers, the design, operation and long-term maintenance of our facilities, the conditions under which employees work, the implementation of our sustainability initiatives, and our interactions with the communities where we live and do business. We will be responsible stewards of the environment, leaders in sustainability, and will protect the health and well-being of our employees and neighbors. We will work to provide and to create public awareness of the importance of environmental stewardship.

The following principles are applicable to Company operations worldwide:

- **Protection:** Conduct all operations in a manner that protects the environment and Waste Management employees, neighbors, and customers. Proactively work to implement procedures and programs that actively audit compliance, identify and manage risks to prevent pollution, reduce emissions and releases, and prevent or reduce other possible adverse consequences from our operations.
- **Compliance:** Comply with all environmental laws and regulations and proactively implement programs and procedures to ensure compliance and promote environmental responsibility.
- **Sustainability:** Practice and promote sustainability through the conservation of nature and the earth's energy resources and the reuse and recycling of materials that otherwise are wasted.
- **Communication:** All Waste Management employees are responsible for helping the Company identify potential threats to human health and the environment from our operations and remedy possible non-compliance with environmental laws and regulations. Suspicion of violations of law or Waste Management's Core Values of Ethical Conduct and Practices shall be communicated in accordance with the Company's Business Ethics and Compliance and Environmental Reporting and Incident Notification Policy.
- **Disclosure:** Waste Management will provide annual updates on its environmental goals and key indicators and will provide a comprehensive GRI-based sustainability report every two years.
- **Engagement:** Waste Management will seek opportunities to engage with stakeholders on environmental, social and governance issues, and will report on the groups with which we engage.

The Company has developed processes, procedures and tools for use in achieving its high standards for environmental performance and compliance. They collectively form the Waste Management Environmental Management System (WM EMS). The Company's operations, across all lines of business, are responsible for implementation and adherence to the WM EMS at each operating location. This applies to all business endeavors in which Waste Management has a fifty-percent or more ownership.

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Waste Management's management will regularly monitor operations and make recommendations to the Board of Directors on programs to continuously improve the environmental performance of the Company. Environmental goals and objectives will be established, reviewed, and approved during management review. The Waste Management Board of Directors and executive management will regularly monitor the environmental performance to ensure adherence to the principles of this policy across the Company.

APPROVAL REQUIREMENTS

N/A

POLICY OWNER/CONTACT

The policy owner is the Director, Environmental Protection and Compliance. Questions regarding this policy should be directed to the Policy Owner.

VARIANCE APPROVALS

Policy variances must be obtained from the Policy Owner. Variances must be requested using the Variance Approval Form.

(b) Record of Past Environmental Issues

3/22/2024 – Notice of Non-Compliance

Findings of Non-Compliance

On February 21, 2024, the DEQ Office of Water Quality conducted an inspection of the above referenced facility in response to two complaints and documented the following non-compliance:

1. DEQ observed off-site sediment tracking from the facility has resulted in sediment accumulation on the sides of Arbor Acres Avenue. Sweeper activities conducted by the facility to clear the road of sediment tracked off-site from the facility has caused the accumulation of sediment.

Corrective Actions to Address Non-Compliance

1. Immediately cease all off-site tracking from the facility onto Arbor Acres Avenue or other adjacent roadways.
2. Immediately remove all accumulated sediment from the sides of Arbor Acres Avenue that has resulted from off-site tracking from the facility.

f. A letter from a corporate surety satisfactory to the City stating that the Performance Bond(s) will be furnished by it to the person submitting the proposal in the event it is the successful proposer. Such letter is to be signed by an authorized representative of the surety together with a certified and effectively dated copy of the power of attorney attached thereto. The Contractor responsible for the transportation and disposal of solid waste received at the Fayetteville Transfer Station will be required to furnish a corporate surety bond as security for the performance of the Contract. This surety bond shall be in the amount of one hundred percent (100%) of the total negotiated price approved by Fayetteville City Council for the first year of the contract. Contractor will have ten (10) business days from Contract approval by Fayetteville City Council to provide the bond. A one hundred (100%) surety bond will be required annually with contract renewal at the estimated tonnage of the 80,000 tons. The premium for the bond(s) described above shall be paid by the Contractor. A certificate from the surety showing that the bond premium(s) is/are paid in full shall accompany the bond. The surety on the bond shall be from corporate surety company duly authorized to do business in the State of Arkansas. Bonds must be written by an "A" rated bonding company.

June 6, 2024

CITY OF FAYETTEVILLE, ARKANSAS
113 West Mountain Street, Room 306
Fayetteville, AR 72701

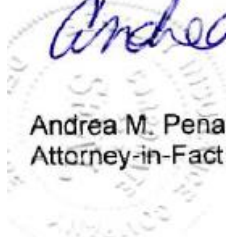
Principal: ECO VISTA, LLC
Bid Date: June 6, 2024
Description: RFP 24-09: Waste Transfer and Disposal Services

Dear Sir/Madam:

We, BERKLEY INSURANCE COMPANY hereby agree that in the event an award is Made to ECO VISTA, LLC on the project as captioned, and a mutually acceptable contract is signed, we will execute the necessary Performance and/or Payment Bonds that may be required.

Sincerely,

BERKLEY INSURANCE COMPANY



Andrea M. Penaloza
Attorney-in-Fact

POWER OF ATTORNEY
BERKLEY INSURANCE COMPANY
 WILMINGTON, DELAWARE

KNOW ALL MEN BY THESE PRESENTS, that **BERKLEY INSURANCE COMPANY** (the "Company"), a corporation duly organized and existing under the laws of the State of Delaware, having its principal office in Greenwich, CT, has made, constituted and appointed, and does by these presents make, constitute and appoint: **Lupe Tyler; Lisa A. Ward; Alexander Dam; Terri L. Morrison; Misty Wright; Andrea M. Penaloza; Gina A. Rodriguez; or Amanda George of AON Risk Services Southwest, Inc. of Houston, TX** its true and lawful Attorney-in-Fact, to sign its name as surety only as delineated below and to execute, seal, acknowledge and deliver any and all bonds and undertakings, with the exception of Financial Guaranty Insurance, providing that no single obligation shall exceed **Fifty Million and 00/100 U.S. Dollars (U.S.\$50,000,000.00)**, to the same extent as if such bonds had been duly executed and acknowledged by the regularly elected officers of the Company at its principal office in their own proper persons.

This Power of Attorney shall be construed and enforced in accordance with, and governed by, the laws of the State of Delaware, without giving effect to the principles of conflicts of laws thereof. This Power of Attorney is granted pursuant to the following resolutions which were duly and validly adopted at a meeting of the Board of Directors of the Company held on January 25, 2010:

RESOLVED, that, with respect to the Surety business written by Berkley Surety, the Chairman of the Board, Chief Executive Officer, President or any Vice President of the Company, in conjunction with the Secretary or any Assistant Secretary are hereby authorized to execute powers of attorney authorizing and qualifying the attorney-in-fact named therein to execute bonds, undertakings, recognizances, or other suretyship obligations on behalf of the Company, and to affix the corporate seal of the Company to powers of attorney executed pursuant hereto; and said officers may remove any such attorney-in-fact and revoke any power of attorney previously granted; and further

RESOLVED, that such power of attorney limits the acts of those named therein to the bonds, undertakings, recognizances, or other suretyship obligations specifically named therein, and they have no authority to bind the Company except in the manner and to the extent therein stated; and further

RESOLVED, that such power of attorney revokes all previous powers issued on behalf of the attorney-in-fact named; and further

RESOLVED, that the signature of any authorized officer and the seal of the Company may be affixed by facsimile to any power of attorney or certification thereof authorizing the execution and delivery of any bond, undertaking, recognizance, or other suretyship obligation of the Company; and such signature and seal when so used shall have the same force and effect as though manually affixed. The Company may continue to use for the purposes herein stated the facsimile signature of any person or persons who shall have been such officer or officers of the Company, notwithstanding the fact that they may have ceased to be such at the time when such instruments shall be issued.

IN WITNESS WHEREOF, the Company has caused these presents to be signed and attested by its appropriate officers and its corporate seal hereunto affixed this 2nd day of May, 2024.



Attest:

By Philip S. Welt
 Philip S. Welt
 Executive Vice President & Secretary

Berkley Insurance Company

By Jeffrey M. Hafner
 Jeffrey M. Hafner
 Senior Vice President

STATE OF CONNECTICUT)

COUNTY OF FAIRFIELD) ss:

Sworn to before me, a Notary Public in the State of Connecticut, this 2nd day of May, 2024, by Philip S. Welt and Jeffrey M. Hafner who are sworn to me to be the Executive Vice President and Secretary, and the Senior Vice President, respectively, of Berkley Insurance Company.

MARIA C. RUNDBAKEN
 NOTARY PUBLIC
 CONNECTICUT

MY COMMISSION EXPIRES 04-30-2029

Maria C. Rundbaken
 Notary Public, State of Connecticut

CERTIFICATE

I, the undersigned, Assistant Secretary of **BERKLEY INSURANCE COMPANY**, DO HEREBY CERTIFY that the foregoing is a true, correct and complete copy of the original Power of Attorney; that said Power of Attorney has not been revoked or rescinded and that the authority of the Attorney-in-Fact set forth therein, who executed the bond or undertaking to which this Power of Attorney is attached, is in full force and effect as of this date.

Given under my hand and seal of the Company, this 6th day of June, 2024.



Vincent P. Forte
 Vincent P. Forte

4. PRICING

a. Proposals shall include all-inclusive pricing for the hauling and disposal of all solid waste received at the Fayetteville Transfer Station at a properly licensed and permitted disposal facility and for the daily transport of all solid waste received at the Fayetteville Transfer Station. The price and rates proposed shall remain firm for the first two (2) years of the contract. If there are any price increases/changes during the remainder of the Contract, this information shall be included in the Proposal as well.

- \$52.22 T&D* - \$14.67 Transport and \$38.55 Disposal (23 ton minimum)
- \$55.22 T&D* - \$16.77 Transport and \$38.55 Disposal (20 Ton Minimum)
(*Pricing is subject to 20 or 23 ton minimum and a per load fuel surcharge-See exceptions.)
- \$42.00 Disposal Only- this requires a 2-ton minimum.
- \$20.00 per cubic yard – Disposal Only of C&D Recycled Materials: Monthly reporting available of recycled or repurposed materials.

Experience, Competence, and Capacity for Performance:

Information reflecting the names, titles, and qualifications (including experience and technical competence) of the major personnel assigned to this specific project.

We are honored to present our proposal as the incumbent waste disposal service provider in response to the City of Fayetteville's request for proposals regarding waste disposal and hauling services. With our extensive experience and in-depth understanding of the City's waste management needs, we are fully committed to maintaining our strong collaboration with the City.

Our proposal includes a waste disposal plan customized to meet Fayetteville's specific requirements. We draw upon our years of service and our in-depth knowledge of the City's Transfer station operations. We leverage WM's Eco Vista's operational approach to ensure compliance and efficient waste disposal methods.

We are pleased to continue our strategic partnership with Mr. Built Industries (MBI) for waste hauling services. This collaboration combines MBI's expertise in waste transportation with WM's unwavering commitment to environmental stewardship, offering a seamless and responsible waste transportation solution from the City of Fayetteville's Transfer station to the Eco Vista Landfill.

We also take pride in highlighting the Renewable Natural Gas facility at the Eco Vista Landfill, demonstrating our joint dedication to sustainability and renewable energy initiatives. This facility, converting landfill gases to natural gas, aligns closely with WM's commitment to environmentally conscious waste management practices. We are eager to further strengthen our partnership with the City of Fayetteville and continue delivering innovative and sustainable waste management solutions. We have full confidence that our joint proposal with MBI will support the City's objectives of achieving efficient and environmentally responsible waste management practices.

Our local City of Fayetteville service team embodies diverse backgrounds, skillsets, and job responsibilities, all connecting back to you - our customer. We have stood by the City through challenging times, whether stemming from economic, environmental, or governmental regulations, and we remain committed to providing the same seamless waste disposal and transportation services to the City in the future.

Your Waste Management City of Fayetteville service team will include:

Operations

- Carl Simmons, Sr. District Manager Post Collections
- Blake Small, District Manager Post Collections
- Jodi Reynolds, Environmental Engineer
- James Vernon, Public Sector Manager

Name: Carl Simmons

Position: Sr District Manager Post Collections

EXPERIENCE

Waste Management

Tunica, MS

Senior District Manager-Post Collections 2016 – Present

- Oversee All aspects for Five Landfills, two transfer stations, One Recycling facility and provide daily support to managers within the area, ensuring quality and budget performances in Arkansas, Tennessee, and Mississippi.

Waste Management

Tunica, MS

District Manager II-Post Collections 2011 - 2016

- Oversee All aspects for three Landfills, One transfer stations, One Recycling facility and Provide daily support to managers within the area, ensuring quality and budget performances in Arkansas, Tennessee, and Mississippi.

Waste Management

Tunica, MS

District Manager I - Post Collections 2006 - 2011

- Manage the day-to-day operations for One Landfill, one transfer stations in Tennessee and Mississippi.

Ensafe Engineering

Memphis, TN

Operations Manager 2005 – 2006

- Manage the day-to-day operations for all environmental remediation projects.

Perma-Fix Environmental Services

Orlando, FL

Director External Services 2003 – 2005

- Direct oversight of All transportation, Customer Service, Government Services, and Field Services Division for all 12 of Perma-Fix's Industrial divisions.

Perma-Fix Environmental Services

Orlando, FL

General Manager -Southeast 2000 – 2003

- Direct oversight for Four Hazardous Waste Treatment, Storage, and Disposal Facilities (Memphis, TN, Valdosta, GA, Orlando, FL, Davie, FL)

Perma-Fix Environmental Services

Memphis, TN

Facility Manager -Memphis 1997 - 2000

- Manage day to day operations for All aspects of Hazardous Waste Treatment, Storage, and Disposal Facility.

Laidlaw Environmental Services

Greenbrier, TN

Field Chemist 1995 - 1997

- Lab-pack and Treatment Chemist

EDUCATION AND TRAINING

Bachelors: Environmental Sciences and Chemistry 1995

Delta State University, Cleveland, MS

Name: Blake Small

Position: District Manager Post Collections

High-performing leader with over 15 years of experience delivering successful improvements for business operations, profitability and team development. Resourceful project manager and compliance specialist with ability to thrive in fast-paced and changing environments, while sustaining operational accuracy and delivering results for optimal profitability, asset growth, & shareholder equity.

EXPERIENCE

WASTE MANAGEMENT

Springdale, Arkansas

District Manager 02/2017 to Current

- Created and implemented programs, policies and procedures designed to effectively reduce or eliminate injuries and hazards in the workplace
- Hired, trained, developed and monitored performance of staff at multiple locations
- Administered day-to-day operations, including accounting and budget management, business development, performance metrics and customer service
- Monitored business trend forecasts and adjusted budgets and operational plans to maximize growth and sustainability.

ADVANCED FLUID TECHNOLOGIES INC.

Sherwood, Arkansas

Field Services Superintendent 05/2014 to 02/2017

- Diagnosed equipment malfunctions and completed repairs to restore equipment and maintain uptime
- Collected, entered and analyzed data and created reports based on findings
- Collaborated with staff to maximize customer satisfaction, streamline procedures and improve top and bottom-line growth.
- Strengthened profit opportunities by developing key customer relationships and managing resources to meet sales objectives

CANNON LANDFILL, LLC

Pine Bluff, Arkansas

Landfill Manager 01/2013 to 05/2014

- Operated, maintained and performed repairs on heavy equipment
- Cleaned and lubricated equipment on regular schedules to maintain life of machinery and achieve consistent operations
- Developed ways to control and reduce environmental impacts
- Advised management on most effective ways of waste management and disposal procedures to avoid environmental contaminations

WASTE MANAGEMENT

Springdale, Arkansas

Landfill Supervisor 10/2007 to 12/2012

- Established and enforced clear goals to keep all employees on same level and working collaboratively
- Established and maintained operating schedules to provide effective coverage for key areas and to achieve customer service objectives
- Conducted regular inspections of facilities to check compliance with fire, hazard and safety guidelines

EDUCATION AND TRAINING

BBA: BUSINESS MANAGEMENT 05/2014

University of Arkansas at Little Rock, Little Rock, AR

Name: Jodi Reynolds

Position: Environmental Engineer

WM (WASTE MANAGEMENT)

Arkansas

Environmental Protection Manager April 2013 – Present

In my current position, I am responsible for environmental compliance at all WM within the State of Arkansas by communicating requirements to each site and aiding with compliance implementation. Coordinates across local, market area and corporate management utilizing environmental compliance planning software to design and track compliance tasks and designing creative hands-on training with each site. Prepares air compliance reporting and senior review of air permitting across portfolio of Arkansas sites. Developed and manages electronic environmental compliance file system that could be accessed corporate-wide. Develops environmental training materials, manuals and procedures for each site in Arkansas. Provides environmental compliance oversight Renewable Natural Gas Plant. Works with materials recycling facilities and sustainability offices to educate employees and the public on sustainability opportunities. Works with local government entities and regulatory authorities to stay on top of ever-changing environmental regulations and prove WM as a leader in environmental compliance.

TERRACON CONSULTANTS, INC

Natural Resource Section Manager May 2004 - March 2013

As a section leader at Terracon, I had the opportunity to be a start to finish regulatory compliance partner for clients by offering responsive and customized regulatory compliance consulting services. My section worked with businesses of all sizes, from grassroots non-profits to Fortune 500 companies, to provide environmental site assessments, wetland delineations (mitigation, when needed), endangered species surveys, cultural resource survey coordination, air permitting and reporting, airport hazard assessments, asbestos surveys, risk assessments, NPDES permitting, stormwater management plans/pollution prevention plans and training programs, spill prevention, control and countermeasures plans and training programs, waste assessments and other services as needed. During my time at Terracon, I helped develop a recordkeeping system for waste services companies and implemented the system at numerous landfills across the U.S.

ARKANSAS HIGHWAY AND TRANSPORTATION DEPARTMENT

Arkansas

Environmental Specialist June 2002 - February 2004

During my time with the AHTD, I was responsible to assist in the development and implementation of a statewide stormwater management program related to highway planning, design, construction activities, maintenance activities, and Department facilities throughout the State of Arkansas. Responsibilities also included site assessments at each of the 75 county facilities, and development of stormwater pollution prevention plans/spill prevention countermeasures and control plans for each facility, including site-specific training.

TERRACON CONSULTANTS, INC

Environmental Specialist August 1998 - June 2002

I began my career in environmental regulatory compliance as a groundwater, stormwater and air sampling technician with Genesis Environmental Consulting. Other responsibilities included: Phase I/II Environmental Site Assessments, asbestos/lead-based paint sampling, stormwater inspections, wetland delineations, air permit preparation and reporting.

EDUCATION AND TRAINING

Bachelor of Science in Biology/Chemistry

Henderson State University, Arkadelphia, AR 1994 - 1998

Name: James Vernon

Position: Public Sector Manager

Jamie will oversee the efforts of WM's team to verify that obligations, such as reporting, service verification, and customer outreach, are delivered per the contract, law, and company policy. He maintains knowledge about legislation, regulations, and local ordinances regarding WM's delivery of services.

Jamie will oversee all aspects of this agreement and will work collaboratively with your staff to design and implement new services and programs in accordance with contractual requirements, changes in law, and your direction.

Jamie has years of experience working with municipal and state governments across the county dealing disasters, communication issues, and public contracting. Jamie is a willing team member and will be there to assist the with any and all issues related to the waste hauling contract.

WM (WASTE MANAGEMENT)

Springdale AR

Public Sector Manager February 2022 to current

AG Witt LLC

Arkansas

Project Manager 2019 to 2022

- Oversee application process determining eligibility for FEMA public assistance for Municipal and State Governments
- Project Management: Provide oversight, guidance, and development of project worksheets for clients to ensure the correct documentation of projects is provided to FEMA.
- Facilitated procurement processes to secure contracts for disaster recovery relief services and/or federal grants management.

Witt Global Partners

Arkansas

Governmental Affairs Manager 2015 to 2022

- Oversee application process determining eligibility for FEMA public assistance programs. Worked under Arkansas Game & Fish Commission and Arkansas Highway Department.

Arkansas Homefurnishings Association

Arkansas

Governmental Affairs Manager 2011 to 2015

- Monitored and Developed legislation on behalf of the home furnishings industry in Arkansas
- Developed relationships with local lawmakers and stakeholders to further the understanding of the issues facing the furniture industry in Arkansas

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)

Arkansas

Public Assistance Project Specialist 2011 to 2011

- Oversee application process determining eligibility for FEMA public assistance programs. Worked under Arkansas Game & Fish Commission and Arkansas Highway Department.
- Performed cost analysis of site damage and documented in-progress projects through project worksheets.
- Determined disaster public assistance eligibility for multiple agencies in Arkansas.

Witt Global Partners, LLC

Little Rock, AR

Associate Intern 2010 to 2011

Served as business development consultant. Researched potential business opportunities in hazard mitigation and emergency planning. Collaborated with office staff to develop project proposals and develop updating hazard mitigation plans.

- Assisted in the development of project proposals for Fort Bend County, Texas Hazard Mitigation Update, Plaquemines Parish, and Los Angeles Emergency Operations Plan Update.
- Managed client accounts, including recording billing, monitoring legislative activities, and updating clients, lobbying on behalf of clients to local legislators.

Ross Rogers Equipment Company

Scranton, AR

Service Associate 2006 to 2010

- Assisted customers by assembling and servicing hay and forage equipment. Managed website sales information, including assuring real-time accuracy of available equipment. Ordered applicable parts. Designed and updated sales advertisements.

EDUCATION AND TRAINING

Bachelor of Science/Emergency Management & Administration

Arkansas Tech University, Russellville AR 2010

MBI Resumes

James Lanenga, AVP, Mr. Bults Inc.

Cell: 708-906-6192

E-mail: jslanenga@att.net or james.lanenga@mrbults.com

Work Experience

Summers of 1996 and 1997, Shop aid - National Waste

Summer of 1998, Survey and Development - SDI Consultants (V-Three)

Summer of 1999, Roll off Dispatch and Customer Service - Illinois Recycling Service (BFI at the time)

2000, Customer Service Representative - B.F.I. Melrose Park, IL

2001, Customer Service Representative - American Disposal, Springfield, MO (Allied Waste)

August 2002-April 2003, Outside Sales - American Disposal, Springfield, MO (Allied Waste)

April 2003-September 2003, Inside Sales - American Disposal, Springfield, MO (Allied Waste)

September 2003-October 2004, Route Driver - American Disposal, Reeds Spring, MO (Allied Waste)

November 2004-October 2007, Swing Driver -American Disposal, Reeds Spring, MO (Allied Waste)

October 2007-July 2010, Field Superintendent - Cambridge Construction

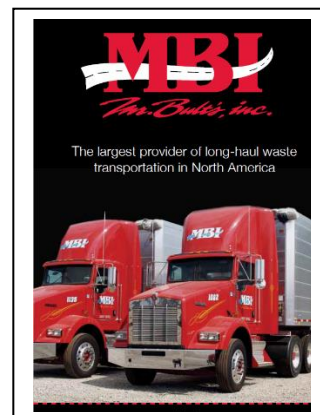
July 2010-November 2011, Operations Supervisor-- Republic Services

November 2011-January 2013, Operations Manager - Republic Services

January 2013 – October 2014, Central Region One Fleet Change Agent - Republic Services

October 2014 – June 2016, Operations Manager - Republic Services

June 2016- Current, AVP of Mr. Bults Inc.



Larry Wass, Terminal Manager, Mr. Bults Inc

1348 Cato Springs Rd

Fayetteville, AR 72701

479-435-8714 | lwass@mrbults.com

Experienced in daily and weekly transportation activities ensuring successful and seamless operations.

Experience

July 2015- present

Terminal Manager • Mr. Bult's

August 2011- July 2015

Owner/Operator • Wass Express

January 2000- August 2011

Driver/Mechanic • Mr. Bult's

Past Performance:

Previous evaluations shall be considered a significant factor. If previous evaluations with the City are not available, the professional firm's past performance records with City and others will be used, including quality of work, timely performance, diligence, and any other pertinent information. Firm will provide a list of similar jobs performed and person whom the City can contact for information.

Entities with Previous Work History with WM and MDI:

Boston Mountain Solid Waste District: Contact: Robyn Reed: 479-846-4617

City of Dardanelle: Contact Mayor Jimmy Witt: 479-229-1022

City of Siloam Springs: Steve Gorszyzch: 479-228-4888

Carol County Solid Waste District: George Boatright: 479-253-2727

Marck Recycle and Waste: Wes Dougherty: 479-831-8940

Additional Performance Recommendations can be provided as requested.

Additional Forms:

June 6, 2024

WM's proposal in response to the City's RFP is conditioned on the following exceptions:

1. These exceptions are part of WM's bid proposal package and are intended to become part of the final negotiated contract between the parties and/or these exceptions should be included in the services agreement and contract documents (hereinafter the "Contract") referenced in Section 25 of the General Terms and Conditions (hereinafter the "Terms") on page 9 of the RFP.
2. WM takes exception to certain language in Section 12 of the Terms on page 6 of the RFP that states the bidder agrees to make the proposed prices for this RFP available to all government entities. WM objects to this stipulation and requires individual governmental entities to bid separately for disposal services because service routes and equipment may be unique.
3. WM wishes to clarify certain language in Section 14(a) of Terms on page 7 of the RFP concerning the right to audit WM's records. WM will maintain accurate records whereby the City may inspect any books, records and/or accounts, which shall be limited to information concerning WM's bonds, insurance, services provided, and rates charged per the final contract. Beyond that, WM takes exception. The City shall not have the right to audit WM's records or books to determine profits or general administrative and overhead expenses. Additionally, WM requires prior reasonable written notice to audit such records at WM's corporate headquarters in Houston, TX.
4. WM agrees to defend and indemnify the City against damages, claims, costs, and lawsuits to the extent arising out of WM's negligent acts or omissions and willful misconduct or its violation of any applicable law. WM takes exception to the indemnification language in Section 15 of the Terms on page 7 of the RFP, which is overbroad and would make WM responsible for potential claims or damages it did not cause. WM reserves the right to negotiate mutually agreeable language regarding its indemnification obligations.
5. WM has sufficient insurance to meet the City's insurance policy limit requirements in Section 18 of the Terms on page 7 of the RFP; however, WM takes exception certain language in Section 18 regarding the City's additional insured status on grounds that additional insured status is not allowed on WM's workers' compensation nor its employer's liability policies.
6. WM takes exception to the language in Section 20(a) of the Terms on page 8 of the RFP that allows the City to terminate the Contract without cause on 30 days' notice. WM is committing equipment and labor to provide its services and cannot agree to a termination without cause provision. Furthermore, WM requires the right to cure any alleged failures or deficiencies within 30 days after receipt of notice from the City before the City can terminate the Contract for cause. WM takes exception to the language that allows the City to immediately terminate the Contract for cause without a right for WM to cure.
7. WM objects to the language in Section 20(b) of the Terms on page 8 of the RFP pertaining to the City's right to immediately cancel the Contract in the event of an alleged breach of contract. WM requires the right to cure any alleged failures, deficiencies or breaches within 30 days after receipt of notice from the City before the City can terminate the Contract for cause. WM takes exception to the language that allows the City to immediately terminate the Contract for cause without a right for WM to cure.
8. Regarding the language in Section 20(c) of the Terms on page 8 of the RFP pertaining to the City's right to cancel the Contract and obtain services from another source, WM requires that if its services are not satisfactory or are determined to be inconsistent with the Contract or the City's order that the City provide WM with written notice of the failure or alleged inconsistency and allow WM at least 30 days

from receipt of such notice to cure the failure(s) or refute the inconsistency before the City has the right to terminate the Contract. Such notice to WM should normally be made close in time to the service date in question.

9. WM's proposal is based on being exclusively awarded all the transportation and disposal services encompassed within the RFP and included in WM's proposal. WM takes exception to the language in Section 22 of the Terms on page 8 of the RFP that allows the City to concurrently contract with other companies for similar work if the City deems such action to be in the City's best interest.
10. WM wishes to clarify the language in Section 24 of the Terms on page 9 of the RFP regarding the right of the City to request additional services under this RFP. WM requires that any such additional services shall be mutually agreed upon by WM and memorialized in a written amendment to the Contract that is been executed by both parties. To the extent otherwise, WM takes exception.
11. WM objects to the language in Section 4 of the Scope of Services and General Information (hereinafter the "Scope") on page 12 of the RFP requiring WM's rates to remain firm for the first two years of the Contract. WM requires a base rate for its services as set forth in the proposal, which the rate can be kept firm for only the first two years of the Contract. Thereafter, the base rate shall be adjusted annually based on the average monthly increase during the applicable 12-month period in the Consumer Price Index for Water, Sewer, and Trash. This methodology will be used annually during the initial and any renewal terms. The following is a representation of the annual rate adjustments calculation:

Annual Adjustments. The parties agree that beginning on XXX and on each XXXX thereafter, the Base Rates will be adjusted by the percentage increase equal to the annual percentage change in the average Consumer Price Index, US City Average for All Urban Consumers, Water, Sewer Trash, Not Seasonally Adjusted, (published by the United States Bureau of Labor Statistics, Consumer Price Index (the "CPI") over the 12 most recently published months compared to the average CPI for the previous 12-month period. The CPI published on the first Monday prior to the end of the month (or the first business day thereafter if such Monday is a Federal Holiday) shall be used to determine the monthly change. The annual percentage change shall be calculated by subtracting the average CPI value for the previous 12-months from the average CPI value for the most recent 12-month period, the result of which shall be divided by the prior 12-month period average. An example of the CPI annual increase calculation follows:

January 2020 through December 2020 compared to January 2021 to December 2021

Index	2020 12-Month Average	2021 12-Month Average	Change	Applied Percentage Change
CPI – Water, Sewer, Trash	252.46	261.47	9.01	3.6% (9.01/252.46)

The calculated change shall be carried to three places to the right of the decimal and rounded to the nearest thousandths. The percentage adjustment will be applied to the then current rates for services, as adjusted hereunder. In the event the U.S. Department of Labor, Bureau of Labor Statistics ceases to publish the CPI, the parties hereto agree to substitute another equally authoritative measure of change in the purchasing power of the U.S. dollar as may be then available so as to carry out the intent of this provision.

12. WM takes exception to the language in Section 6 of the Scope on page 13 of the RFP that says the City has the option to renew or extend the Contract. WM requires that any renewal options must be mutually agreed to by both parties in writing.

13. WM requires the final contract between the parties to include language that accurately reflects the scope of services and rights and obligations agreed to by the parties, as well as, necessary definitions, including but not limited to, the following:

a. WM requires a definition for “Disposal Facility” to mean the landfill known as the Eco-Vista Landfill, located at 2210 WM Drive, Springdale, AR 72762, which is which is utilized, owned, and operated by WM and permitted to receive Solid Waste, Yard Waste, C&D and/or Special Waste by the applicable federal, state, and/or local agency.

b. WM requires a definition for “Transfer Station” to mean the Fayetteville Solid Waste Transfer Station, located at 1560 S. Happy Hollow Road, Fayetteville, Arkansas 72701, which is utilized, owned and operated by the City and permitted to receive Solid Waste, Yard Waste, C&D and/or Special Waste by the applicable federal, state, and/or local agency.

c. WM requires a definition for “Solid Waste” or “Waste” to mean all non-hazardous Garbage, Rubbish, Yard Waste and/or C&D that can legally be received at the Transfer Station and Disposal Facility. The term “Solid Waste” or “Waste” specifically excludes Unacceptable Waste.

d. WM requires a definition for “Acceptable Waste” to mean Waste that may be legally received and accepted at the Transfer Station and the Disposal Facility. Acceptable Waste shall not include any Hazardous Waste, toxic wastes, Special Waste that has not been profiled and pre-approved in by WM in writing, as defined below and by Federal, State or local law or regulations, or any other waste, which is not acceptable under Federal, State or local law, regulations, or permit at the Transfer Station or Disposal Facility.

e. WM requires a definition “Garbage” to mean Waste consisting of putrescible or animal and vegetable waste materials resulting from the handling, preparation, cooking, and consumption of food, including waste materials from markets, storage facilities, handling and sale of produce and other food products, and all dead animals of less than ten pounds (10 lbs) in weight, except those slaughtered for human consumption.

f. WM requires a definition of “Yard Waste” to mean any vegetative matter resulting from private landscaping or regular yard maintenance, including, but not limited to, tree limbs, branches, yard debris, bagged grass clippings and bagged leaves, excluding items over six (6) feet long and four (4) inches in diameter.

g. WM requires a definition of “Rubbish” to mean nonputrescible Solid Waste (excluding ashes), consisting of both combustible and noncombustible waste materials. Combustible rubbish includes paper, rags, cartons, wood, excelsior, furniture, rubber, plastics or similar materials; noncombustible rubbish includes glass, crockery, tin cans, aluminum cans, metal furniture, and similar materials that will not burn at ordinary incinerator temperatures (1,600 degrees Fahrenheit to 1,800 degrees Fahrenheit).

h. WM requires a definition of “Medical Waste” to mean Waste generated by health care related facilities and associated with health care activities, not including Garbage or Rubbish generated from offices, kitchens, or other non-health-care activities. The term includes Special Waste from health care-related facilities which is comprised of animal waste, bulk blood and blood products, microbiological waste, pathological waste, and sharps as those terms are defined in in Ark. Code Ann. §20-32-101 (relating to Definitions).

i.WM requires a definition for "Construction and Demolition Debris" or "C&D" to mean materials resulting from construction, remodeling, repair, or demolition operations. Such materials include, but are not limited to, dirt, sand, rock, bricks, plaster, gypsum wallboard, aluminum, glass, asphalt material, plastic pipe, roofing material, carpeting, concrete, wood, masonry, trees, remnants of new construction materials, including paper, plastic, carpet scraps, wood scraps, scrap metal, building materials, and packaging. With the exception of soil, concrete and asphalt, Construction and Demolition Debris does not include Unacceptable Waste.

j.WM requires a definition for "Special Waste" to mean waste materials that require special handling and management due to the nature of the waste, including, but not limited to, the following: (i.) containerized waste (e.g. a drum, barrel, portable tank, box, pail, etc.), (ii.) waste transported in bulk tanker, (iii.) liquid waste, (iv.) sludge waste, (v.) waste from an industrial process, (vi.) waste from a pollution control process, (vii.) residue and debris from the cleanup of a spill or release of chemical(s), or (viii.) any other waste defined by applicable law, rule or regulation as "Special Waste."

k.WM requires a definition for "Unacceptable Waste" to mean any waste or material that (i) the acceptance and handling of which by WM would cause a violation of any permit, condition, legal or regulatory requirement, (ii) can cause substantial damage to WM's equipment or facilities, (iii) presents a danger to the health or safety of the public or WM's employees, (iv) is or contains Hazardous Waste, industrial waste, liquid waste, Special Waste that has not been profiled and pre-approved by WM, untreated Medical Waste, dead animals weighing ten pounds (10 lbs.) or greater, (v) is or contains solid or dissolved material in domestic sewage, or solid or dissolved material in irrigation return flows, or industrial discharges subject to regulation by permit, or (vi) results from activities associated with the exploration, development, or production of oil or gas or geothermal resources, (vii) is or contains fuels, (viii) is or contains motor oil or paint, (ix) is or contains televisions, (x) is or contains batteries, (xi) is or contains florescent light bulbs, (xii) is or contains white goods (household appliances), (xiii) is or contains treated/de-characterized wastes, (xiv) is or contains any waste tires, (xvi) is or contains sludge, (xivii) is or contains waste or materials that may adversely affect the operations of the disposal facility or transfer station regardless if such waste or materials could be legally received, and/or (xiviii) is or contains other solid or liquid waste specifically prohibited for disposal at the Disposal Facility or Transfer Station by Arkansas Department of Environmental Quality (ADEQ) or any other regulatory agency having jurisdiction over such landfill, in accordance with applicable law. Title to and liability for Unacceptable Waste shall remain with the generator all times. WM has no obligation to accept, transport, process or dispose of any Unacceptable Waste.

l.If the City tenders Unacceptable Waste in breach of the final negotiated contract between the parties, WM may in its sole discretion either remove, manage, handle, store, treat, and/or dispose of that Unacceptable Waste and charge the City for the costs, expenses, damages, fines, and penalties arising out of such activities or require the City to promptly remove, manage, handle, or dispose of the Unacceptable Waste from the Disposal Facility at the City's sole cost. The City shall pay or reimburse WM for any and all costs, damages and/or fines incurred as a result of or relating to the City's tender or delivery of Unacceptable Waste, including costs of inspection, testing, analysis, legal fees, professional consulting fees, or removal costs.

m.A force majeure" clause providing that neither party shall be in default for its failure to perform or suspend performance, in whole or in part, due to events or threats of events beyond its reasonable control, whether or not foreseeable, including, but not limited to, fires, floods, tornadoes, hurricanes, ice storms, acts of war or terrorism, riots, epidemics, pandemics, imposition of new or modified domestic or foreign laws, governmental orders, acts of God, and the inability to obtain labor, materials or equipment due to the foregoing circumstances. The affected party shall be excused from performance during the occurrence of such events.

n.If the City fails to timely pay WM’s invoices, WM shall have the right to assess a late fee or late charge to the extent allowed by law. WM also shall have, upon providing written notice to City, the right to suspend its services if payment is more than 60 days’ past due.

o.WM is entitled to an increase in its rates to offset changes in conditions that WM does not control, but which increase WM’s costs, such as changes in or new governmental laws, ordinances, rules, regulations or the enforcement thereof, changes in landfill disposal rates, and other conditions that increase WM’s costs. WM agrees to give the City thirty (30) days' written notice of such increase, and to provide documentation substantiating such increase.

p.WM requires the City to pay a Quarterly True Up payment to WM if the City is performing the loading of Solid Waste at the Transfer Station. If the City does not achieve a twenty (20) or twenty-three (23) tons per load quarterly average(City selects 20 or 23 ton price structure), then the City shall pay to WM the difference for any short falls as set forth per the following example below (“Quarterly True Up”).

Quarterly True up	
Example: Fayetteville to ECO at 23 tpl	
Minimum TPL:	23
Rate Per Ton:	\$14.67
Quarterly Total Tons:	1,000
Quarterly Total Loads:	45
Quarterly Average TPL (Total Tons/Total Loads):	22.22
Missed Average TPL (Minimum TPL-Quarterly Average TPL):	0.78
Missed Tons (Quarterly Total Loads x Missed Average TPL):	35
WM Pays MBI For Minimum Charges (Missed Tons x Rate Per Ton):	\$513.45

q.WM requires the City to pay a fuel surcharge in addition to the base rates for transportation, disposal and any Quarterly True Up payment. The City shall pay a fuel surcharge as follows (“Fuel Surcharge”): In the event that the price of fuel deviates from the threshold price per gallon, a mileage based fuel surcharge (or discount) shall be applied on a per haul basis. The surcharge will increase or decrease by one cent (\$.01) per mile for every 5-cent increase or decrease in the price of diesel fuel above or below the threshold price of \$3.00 per gallon, as determined by the corresponding per mile surcharge shown in the table below. Calculations shall be made the first week of each month based upon the United States Energy Information Administration’s (EIA) U.S. On-Highway Diesel Fuel Price Index for PADD 2 (Midwest) price as reported on their website at <http://www.eia.gov/petroleum/gasdiesel/> or phone no. (202) 586-6966, will be used as typically announced each Monday, or on Tuesday when Monday is a federal holiday*.

FSC Calculator			
Fuel Base	\$ 3.00	Destination	ECO VISTA

Average Fuel Price based on:			Round Trip Miles	44
EIA Padd 2 Midwest			Surcharge/Mile	Surcharge/Load
\$ 2.1501	to	\$ 2.20	\$ (0.16)	\$ (7.04)
\$ 2.2001	to	\$ 2.25	\$ (0.15)	\$ (6.60)
\$ 2.2501	to	\$ 2.30	\$ (0.14)	\$ (6.16)
\$ 2.3001	to	\$ 2.35	\$ (0.13)	\$ (5.72)
\$ 2.3501	to	\$ 2.40	\$ (0.12)	\$ (5.28)
\$ 2.4001	to	\$ 2.45	\$ (0.11)	\$ (4.84)
\$ 2.4501	to	\$ 2.50	\$ (0.10)	\$ (4.40)
\$ 2.5001	to	\$ 2.55	\$ (0.09)	\$ (3.96)
\$ 2.5501	to	\$ 2.60	\$ (0.08)	\$ (3.52)
\$ 2.6001	to	\$ 2.65	\$ (0.07)	\$ (3.08)
\$ 2.6501	to	\$ 2.70	\$ (0.06)	\$ (2.64)
\$ 2.7001	to	\$ 2.75	\$ (0.05)	\$ (2.20)
\$ 2.7501	to	\$ 2.80	\$ (0.04)	\$ (1.76)
\$ 2.8001	to	\$ 2.85	\$ (0.03)	\$ (1.32)
\$ 2.8501	to	\$ 2.90	\$ (0.02)	\$ (0.88)
\$ 2.9001	to	\$ 2.95	\$ (0.01)	\$ (0.44)
\$ 3.00	to	\$ 3.0499	\$ -	\$ -
\$ 3.05	to	\$ 3.0999	\$ 0.01	\$ 0.44
\$ 3.10	to	\$ 3.1499	\$ 0.02	\$ 0.88
\$ 3.15	to	\$ 3.1999	\$ 0.03	\$ 1.32
\$ 3.20	to	\$ 3.2499	\$ 0.04	\$ 1.76
\$ 3.25	to	\$ 3.2999	\$ 0.05	\$ 2.20
\$ 3.30	to	\$ 3.3499	\$ 0.06	\$ 2.64
\$ 3.35	to	\$ 3.3999	\$ 0.07	\$ 3.08
\$ 3.40	to	\$ 3.4499	\$ 0.08	\$ 3.52
\$ 3.45	to	\$ 3.4999	\$ 0.09	\$ 3.96
\$ 3.50	to	\$ 3.5499	\$ 0.10	\$ 4.40
\$ 3.55	to	\$ 3.5999	\$ 0.11	\$ 4.84

\$ 3.60	to	\$ 3.6499	\$ 0.12	\$ 5.28
\$ 3.65	to	\$ 3.6999	\$ 0.13	\$ 5.72
\$ 3.70	to	\$ 3.7499	\$ 0.14	\$ 6.16
\$ 3.75	to	\$ 3.7999	\$ 0.15	\$ 6.60
\$ 3.80	to	\$ 3.8499	\$ 0.16	\$ 7.04
\$ 3.85	to	\$ 3.8999	\$ 0.17	\$ 7.48
\$ 3.90	to	\$ 3.9499	\$ 0.18	\$ 7.92
\$ 3.95	to	\$ 3.9999	\$ 0.19	\$ 8.36
\$ 4.00	to	\$ 4.0499	\$ 0.20	\$ 8.80
\$ 4.05	to	\$ 4.0999	\$ 0.21	\$ 9.24
\$ 4.10	to	\$ 4.1499	\$ 0.22	\$ 9.68
\$ 4.15	to	\$ 4.1999	\$ 0.23	\$ 10.12
\$ 4.20	to	\$ 4.2499	\$ 0.24	\$ 10.56
\$ 4.25	to	\$ 4.2999	\$ 0.25	\$ 11.00
\$ 4.30	to	\$ 4.3499	\$ 0.26	\$ 11.44
\$ 4.35	to	\$ 4.3999	\$ 0.27	\$ 11.88
\$ 4.40	to	\$ 4.4499	\$ 0.28	\$ 12.32
\$ 4.45	to	\$ 4.4999	\$ 0.29	\$ 12.76
\$ 4.50	to	\$ 4.5499	\$ 0.30	\$ 13.20
\$ 4.55	to	\$ 4.5999	\$ 0.31	\$ 13.64
\$ 4.60	to	\$ 4.6499	\$ 0.32	\$ 14.08
\$ 4.65	to	\$ 4.6999	\$ 0.33	\$ 14.52
\$ 4.70	to	\$ 4.7499	\$ 0.34	\$ 14.96
\$ 4.75	to	\$ 4.7999	\$ 0.35	\$ 15.40
\$ 4.80	to	\$ 4.8499	\$ 0.36	\$ 15.84
\$ 4.85	to	\$ 4.8999	\$ 0.37	\$ 16.28
\$ 4.90	to	\$ 4.9499	\$ 0.38	\$ 16.72
\$ 4.95	to	\$ 4.9999	\$ 0.39	\$ 17.16
\$ 5.00	to	\$ 5.0499	\$ 0.40	\$ 17.60
\$ 5.05	to	\$ 5.0999	\$ 0.41	\$ 18.04

\$ 5.10	to	\$ 5.1499	\$ 0.42	\$ 18.48
\$ 5.15	to	\$ 5.1999	\$ 0.43	\$ 18.92
\$ 5.20	to	\$ 5.2499	\$ 0.44	\$ 19.36
\$ 5.25	to	\$ 5.2999	\$ 0.45	\$ 19.80
\$ 5.30	to	\$ 5.3499	\$ 0.46	\$ 20.24
\$ 5.35	to	\$ 5.3999	\$ 0.47	\$ 20.68
\$ 5.40	to	\$ 5.4499	\$ 0.48	\$ 21.12
\$ 5.45	to	\$ 5.4999	\$ 0.49	\$ 21.56
\$ 5.50	to	\$ 5.5499	\$ 0.50	\$ 22.00
\$ 5.55	to	\$ 5.5999	\$ 0.51	\$ 22.44
\$ 5.60	to	\$ 5.6499	\$ 0.52	\$ 22.88
\$ 5.65	to	\$ 5.6999	\$ 0.53	\$ 23.32
\$ 5.70	to	\$ 5.7499	\$ 0.54	\$ 23.76
\$ 5.75	to	\$ 5.7999	\$ 0.55	\$ 24.20
\$ 5.80	to	\$ 5.8499	\$ 0.56	\$ 24.64
\$ 5.85	to	\$ 5.8999	\$ 0.57	\$ 25.08
\$ 5.90	to	\$ 5.9499	\$ 0.58	\$ 25.52
\$ 5.95	to	\$ 5.9999	\$ 0.59	\$ 25.96
\$ 6.00	to	\$ 6.0499	\$ 0.60	\$ 26.40
\$ 6.05	to	\$ 6.0999	\$ 0.61	\$ 26.84
\$ 6.10	to	\$ 6.1499	\$ 0.62	\$ 27.28
\$ 6.15	to	\$ 6.1999	\$ 0.63	\$ 27.72
\$ 6.20	to	\$ 6.2499	\$ 0.64	\$ 28.16
\$ 6.25	to	\$ 6.2999	\$ 0.65	\$ 28.60
\$ 6.30	to	\$ 6.3499	\$ 0.66	\$ 29.04
\$ 6.35	to	\$ 6.3999	\$ 0.67	\$ 29.48
\$ 6.40	to	\$ 6.4499	\$ 0.68	\$ 29.92
\$ 6.45	to	\$ 6.4999	\$ 0.69	\$ 30.36
\$ 6.50	to	\$ 6.5499	\$ 0.70	\$ 30.80
\$ 6.55	to	\$ 6.5999	\$ 0.71	\$ 31.24

\$	6.60	to	\$	6.6499	\$	0.72	\$	31.68
Table Continues above and below at same formula								

r. Definitions of terms and other language that accurately reflects the scope of services and the parties agreed upon obligations and rights.

WM's prices and submission in response to this RFP is conditioned upon the parties' entry into a contract that is appropriate for the services being requested and that contains mutually acceptable terms to both parties. Neither WM nor the City has any obligation to sign a final contract without negotiation of the terms and each party's agreement to the final language. WM looks forward to working with City to reach mutually agreeable contract terms.

Permits



**DIVISION OF
ENVIRONMENTAL QUALITY**
5301 NORTHSHORE DRIVE
NORTH LITTLE ROCK, AR 72118-5317

David Conrad
100 Two Pine Drive
North Little Rock, AR 72117

NOTICE OF FINAL PERMITTING DECISION

Date of Decision: July 31, 2023
AFIN: 72-00144; Permit No. 0290-S1-R4
Eco-Vista, LLC
2210 Waste Management Drive
Springdale, AR 72762



The Director has issued a final permitting decision for the above referenced permit. The Director's decision was made upon consideration of the completed application, the public comments on the record, and other materials provided by law or regulation applicable to the application.

The Arkansas Department of Energy and Environment, Division of Environmental Quality (DEQ) has issued a final permitting decision approving the application for a Class 1 Landfill Expansion pursuant to Arkansas Pollution Control and Ecology Commission (APC&EC) Rule 22 for AFIN 72-00144; Permit No. 0290-S1-R4. A Statement of Basis for the decision and DEQ's Response to Comments is available on DEQ's website at www.adeq.state.ar.us/downloads/WebDatabases/SolidWaste/PermittedFacilities/GenDocs/84389.pdf.

The notice of the final permitting decision was mailed to the applicant on July 31, 2023. The certificate of service for this final permitting decision as required by APC&EC Rule 8, is part of the permitting record and available through the hyperlink above.

The applicant and any person who submitted public comments on the record may request an adjudicatory hearing and Commission review of the final permitting decision as provided by APC&EC Rule 8, Chapter 6.

NOTICE OF FINAL PERMITTING DECISION

Class 4 Permit Expansion
Date of Decision: March 17, 2023
AFIN: 72-00144; Permit No. 0290-S4-R2

Eco-Vista, LLC
2210 Waste Management Drive
Springdale, Arkansas 72762

The Director has issued a final permitting decision for the above referenced permit. The Director's decision was made upon consideration of the completed application, the public comments on the record, and other materials provided by law or regulation applicable to the application.

Effective March 17, 2023, the Arkansas Department of Energy and Environment, Division of Environmental Quality (DEQ) has approved the application for a Class 4 Permit Expansion pursuant to Arkansas Pollution Control and Ecology Commission (APC&EC) Rule 22 for Permit No. 0290-S4-R2 and AFIN 72-00144. A Statement of Basis for the decision and DEQ's Response to Comments is available on DEQ's website at www.adeq.state.ar.us/downloads/WebDatabases/SolidWaste/PermittedFacilities/GenDocs/83496.pdf. To request a copy of the documents please call 501-682-0865.

The applicant and any person who submitted public comments on the record may request an adjudicatory hearing and Commission review of the final permitting decision as provided by APC&EC Rule 8, Chapter 6.

I, Karen Blue, hereby certify that this NOTICE OF FINAL PERMITTING DECISION issued on March 17, 2023, has been mailed by first class mail to the addressee of this post card.

Karen Blue



SCAN ME



**DIVISION OF
ENVIRONMENTAL QUALITY**
5301 NORTHSHORE DRIVE
NORTH LITTLE ROCK, AR 72118-5317

Permits

Certificate of Insurance



CERTIFICATE OF LIABILITY INSURANCE

1/1/2025

DATE (MM/DD/YYYY)
3/15/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	LOCKTON COMPANIES 3657 BRIARPARK DRIVE, SUITE 700 HOUSTON TX 77042 866-260-3538	CONTACT NAME:	
		PHONE (A/C, No, Ext):	FAX (A/C, No):
		E-MAIL ADDRESS:	
		INSURER(S) AFFORDING COVERAGE	
		NAIC #	
INSURED 1300299	WASTE MANAGEMENT HOLDINGS, INC. & ALL AFFILIATED RELATED & SUBSIDIARY COMPANIES INCLUDING: WASTE MANAGEMENT INC. 2555 MERIDIAN BOULEVARD, SUITE 200 FRANKLIN TN 37067	INSURER A: Indemnity Insurance Co of North America	
		43575	
		INSURER B: ACE American Insurance Company	
		22667	
		INSURER C: ACE Fire Underwriters Insurance Company	
		20702	
		INSURER D: ACE Property and Casualty Insurance Company	
		20699	
		INSURER E:	
		INSURER F:	

COVERAGES **CERTIFICATE NUMBER:** 20384280 **REVISION NUMBER:** XXXXXXXX

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADCL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
B	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR ☒ XCU INCLUDED ☒ ISO FORM CG00010413 GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☒ PROJECT ☒ LOC OTHER:	Y	Y	HDO G48902339	1/1/2024	1/1/2025	EACH OCCURRENCE \$ 5,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 5,000,000 MED EXP (Any one person) \$ XXXXXXXX PERSONAL & ADV INJURY \$ 5,000,000 GENERAL AGGREGATE \$ 6,000,000 PRODUCTS - COMP/OP AGG \$ 6,000,000 \$
B	AUTOMOBILE LIABILITY ☒ ANY AUTO ☒ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☒ HIRED AUTOS ONLY ☒ NON-OWNED AUTOS ONLY ☒ MCS-90	Y	Y	MMT H10822294	1/1/2024	1/1/2025	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ XXXXXXXX BODILY INJURY (Per accident) \$ XXXXXXXX PROPERTY DAMAGE (Per accident) \$ XXXXXXXX \$ XXXXXXXX
D	☒ UMBRELLA LIAB ☒ OCCUR ☒ EXCESS LIAB ☐ CLAIMS-MADE ☐ DED ☐ RETENTION \$	Y	Y	XEU G27929242 009	1/1/2024	1/1/2025	EACH OCCURRENCE \$ 15,000,000 AGGREGATE \$ 15,000,000 \$ XXXXXXXX
A B C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N	N/A	WLR C55517010 (AOS) WLR C55516881 (AZ, CA & MA) SCF C55517083 (WI)	1/1/2024 1/1/2024 1/1/2024	1/1/2025 1/1/2025 1/1/2025	☒ PER STATUTE ☐ OTHER E.L. EACH ACCIDENT \$ 3,000,000 E.L. DISEASE - EA EMPLOYEE \$ 3,000,000 E.L. DISEASE - POLICY LIMIT \$ 3,000,000
B	EXCESS AUTO LIABILITY	Y	Y	XSA H10822233	1/1/2024	1/1/2025	COMBINED SINGLE LIMIT \$9,000,000 (EACH ACCIDENT)

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
 BLANKET WAIVER OF SUBROGATION IS GRANTED IN FAVOR OF CERTIFICATE HOLDER ON ALL POLICIES WHERE AND TO THE EXTENT REQUIRED BY WRITTEN CONTRACT WHERE PERMISSIBLE BY LAW. CERTIFICATE HOLDER IS NAMED AS AN ADDITIONAL INSURED ON ALL POLICIES (EXCEPT FOR WORKERS' COMP/EMPLOYER'S LIABILITY) WHERE AND TO THE EXTENT REQUIRED BY WRITTEN CONTRACT.

CERTIFICATE HOLDER	CANCELLATION
20384280 FOR BID PURPOSE ONLY	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE

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Details

For service of process contact the [Secretary of State's office](#).

LLC Member information is now confidential per Act 865 of 2007

For access to our corporations bulk data download service [click here](#).

Corporation Name

ECO-VISTA, LLC

Fictitious Names

WASTE MANAGEMENT - TONTITOWN LANDFILL

Filing

100186302

Filing Type

Limited Liability Company

Filed Under Act

Domestic LLC; 1003 of 1993

Status

Good Standing

Principal Address

—

Reg. Agent

C T CORPORATION SYSTEM

Agent Address

320 S. IZARD STREET LITTLE ROCK, AR 72201

Date Filed

06/13/2000

Officers

WASTE MANAGEMENT OF ARKANSAS, INC., Manager

MARK A. LOCKETT, Tax Preparer

SEE FILE, Incorporator/Organizer

Foreign Name

—

Foreign Address

—

State of Origin

—

[Purchase a Certificate of Good Standing for this Entity](#)

[Pay Franchise Tax for this corporation](#)



CITY OF
FAYETTEVILLE
ARKANSAS

APPENDIX A

City of Fayetteville, Arkansas
Purchasing Division – Room 306
113 W. Mountain
Fayetteville, AR 72701
Phone: 479.575.8256

TDD (Telecommunication Device for the Deaf): 479.521.1316

RFP (REQUEST FOR PROPOSAL)

Request for Proposal: RFP 24-09, Waste Transfer and Disposal Services

DEADLINE: Thursday, June 6, 2024 before 2:00 PM, local time

PRE-PROPOSAL CONFERENCE: Wednesday, May 22, 2024 at 3:00 PM, in person at the RTC
Division, 1560 S. Happy Hollow Rd., Fayetteville, AR 72701

SR. PURCHASING AGENT: Amanda Beilfuss, abeilfuss@fayetteville-ar.gov

DATE OF ISSUE AND ADVERTISEMENT: 05/12/2024

REQUEST FOR PROPOSAL

RFP 24-09, Waste Transfer and Disposal Services

No late proposals shall be accepted. RFP's shall be submitted through the City's third-party electronic bidding platform or by submitting a sealed physical proposal to the City of Fayetteville, Purchasing Division at the below location.

*City of Fayetteville
Purchasing Division – Room 306
113 West Mountain Street
Fayetteville, AR 72701*

All proposals shall be submitted in accordance with the attached City of Fayetteville specifications and documents attached hereto. Each Proposer is required to fill in every blank and shall supply all information requested; failure to do so may be used as basis of rejection.

The undersigned hereby offers to furnish & deliver the articles or services as specified, at the prices & terms stated herein, and in strict accordance with the specifications and general conditions of bidding, all of which are made a part of this offer. This offer is not subject to withdrawal unless upon mutual written agreement by the Proposer/Bidder and City Purchasing Director.

City of Fayetteville, AR
Request for Proposal
RFP 24-09, Waste Transfer and Disposal Services

The City of Fayetteville, Arkansas, is now accepting proposals from properly licensed professionals for the daily transport and disposal of all solid waste received at the Fayetteville Solid Waste Transfer Station. Any questions regarding this RFP shall be directed to Amanda Beilfuss, City of Fayetteville Sr. Purchasing Agent at abeilfuss@fayetteville-ar.gov or (479) 575-8220.

Solicitation documents and addenda shall be obtained at the City of Fayetteville Purchasing Division's electronic bidding platform at www.fayetteville-ar.gov/bids. All proposals shall be received by **Thursday, June 6, 2024 before 2:00 PM, Local Time** utilizing the electronic bidding software or by submitting a sealed physical proposal to the City of Fayetteville, Purchasing Division. All proposals are due before the time stated. No late proposals shall be accepted. Submitting electronically is strongly encouraged. The City of Fayetteville shall not be responsible for lost or misdirected proposals, or for failure of proposer's technical equipment.

A non-mandatory pre-proposal conference will be held **Wednesday, May 22, 2024 at 3:00 PM** in the Conference Room at the Recycling Trash Division, 1560 S. Happy Hollow Rd., Fayetteville, AR 72701. Information regarding the pre-proposal conference is available on the project page on the City's electronic bidding platform. All interested parties are strongly encouraged to attend.

A one hundred percent (100%) performance bond is required with the contract award. All interested parties shall be qualified to do business and licensed in accordance with all applicable laws of the state and local governments where the project is located. Proposers shall have a current, valid registration with the Arkansas Secretary of State at time of RFP deadline OR be able to provide proof of registration before recommendation of award to Fayetteville City Council.

The City of Fayetteville reserves the right to reject any or all Proposals and to waive irregularities therein, and all parties agree that such rejection shall be without liability on the part of the City of Fayetteville for any damage or claim brought by any interested party because of such rejections, nor shall any interested party seek any recourse of any kind against the City of Fayetteville because of such rejections. The filing of any Statement in response to this invitation shall constitute an agreement of the interested party to these conditions.

City of Fayetteville
By: Amanda Beilfuss, Sr. Purchasing Agent
P: 479.575.8220 abeilfuss@fayetteville-ar.gov
TDD (Telecommunications Device for the Deaf): (479) 521-1316
Date of advertisement: 05/12/2024
This publication was paid for by the Purchasing Division of the City of Fayetteville, Arkansas.
Amount paid: \$204.10

1. SUBMISSION OF A PROPOSAL SHALL INCLUDE:

Each proposal shall contain the following at a minimum. Proposer must also address detailed requirements as specified in the Scope of Work.

- a. A written narrative describing the method or manner in which the Proposer proposes to satisfy requirements of this RFP in the most cost-effective manner. The term Proposer shall be in reference to a firm or individual responding to this solicitation.
- b. A description of the Proposer's experience in providing the same or similar services as outlined in the RFP. This description should include the names of the person(s) who will provide the services, their qualifications, and the years of experience in performing this type of work. Also, include the reference information requested in this RFP.
- c. The complete fee and cost to the City for all services outlined in this RFP.
- d. Statement should be no more than twenty-five (25) pages; single sided, standard, readable, print on standard 8.5x11 documents. Proposers shall also submit a three (3) page (maximum) executive summary. The following items will not count toward the twenty-five-page limitation: appendix, cover sheet, 3-page executive summary, resumes (resumes shall be no more than 1 page per person), and forms provided by the City for completion.
 - i. **Submitting and responding to this RFP:** Proposals shall be prepared simply and economically, providing a straightforward, concise description of its ability to meet the requirements for the project. Fancy bindings, colored displays, and promotional material are not required. Emphasis should be on completeness and clarity of content. All documents physically submitted should be typewritten on standard 8 ½" x 11" white papers and bound in one volume. Exceptions would be schematics, exhibits, one-page resumes, and City required forms. Limit proposal to twenty-five (25) pages or less, excluding one-page team resumes, references, and forms required by the City for completion. All proposals shall be sealed upon delivery to the City of Fayetteville.
 1. Option 1 –Electronic Submittal (*strongly encouraged*): Proposers can go to www.fayetteville-ar.gov/bids and follow the prompts to submit a proposal within the electronic bidding platform. If a proposal is submitted electronically, a physical submission is not necessary. All Proposers must register in order to be able to submit. There is no fee for registration.
 2. Option 2 – Physical Submittal: All Proposers shall submit one (1) original copy of their proposal as well as one (1) electronic copy on a properly labeled USB or other electronic media device. The electronic copy submitted shall be contained into one single electronic file and shall be identical to the hard copies provided. The use of Adobe PDF documents is strongly recommended. Files contained on an USB or electronic media shall not be restricted against saving or printing. Electronic copies shall not be submitted via e-mail to

City employees by the Proposer and shall be provided to the City in a sealed manner. FedEx, UPS, USPS, or other packages should be clearly marked with the RFP number on the outside of the mailing package.

- e. Proposals will be reviewed following the stated deadline, as shown on the cover sheet of this document. Only the names of Proposer's will be available after the deadline until a contract has been awarded by the Fayetteville City Council. All interested parties understand proposal documents will not be available until after a valid contract has been executed.
- f. Proposers shall submit a proposal based on documentation published by the Fayetteville Purchasing Division.
- g. Proposals must follow the format of the RFP. Proposers should structure their responses to follow the sequence of the RFP.
- h. Proposers shall have experience in work of the same or similar nature and must provide references that will satisfy the City of Fayetteville. Proposer shall furnish a reference list of clients for whom they have performed similar services and must provide information as requested in this document.
- i. Proposer is advised that exceptions to any of the terms contained in this RFP or the attached service agreement must be identified in its response to the RFP. Failure to do so may lead the City to declare any such term non-negotiable. Proposer's desire to take exception to a non-negotiable term will not disqualify it from consideration for award.
- j. Local time shall be defined as the time in Fayetteville, Arkansas on the due date of the deadline. Documents shall be received before the deadline time as shown by the atomic clock located in the Purchasing Division Office or electronic clock located in the City's third-party bidding software.

2. WRITTEN REQUESTS FOR INTERPRETATIONS OR CLARIFICATION:

No oral interpretations will be made to any firms as to the meaning of specifications or any other contract documents. All questions pertaining to the terms and conditions or scope of work of this proposal must be sent in writing via e-mail to the Purchasing Department. Responses to questions may be handled as an addendum if the response would provide clarification to the requirements of the proposal. All such addenda shall become part of the contract documents. The City will not be responsible for any other explanation or interpretation of the proposed RFP made or given prior to the award of the contract.

3. DESCRIPTION OF SUPPLIES AND SERVICES:

Any manufacturer's names, trade name, brand name, catalog number, etc. used in specifications are for the purpose of describing and establishing general quality levels. Such references are NOT intended to be restrictive. Proposals shall be considered for all brands that meet the quality of the specifications listed for any items.

4. RIGHTS OF CITY OF FAYETTEVILLE IN REQUEST FOR PROPOSAL PROCESS:

In addition to all other rights of the City of Fayetteville, under state law, the City specifically reserves the right to the following:

- a. The City of Fayetteville reserves the right to rank firms and negotiate with the highest-ranking firm. Negotiation with an individual Proposer does not require negotiation with others.
- b. The City of Fayetteville reserves the right to select the proposal it believes will serve the best interest of the City.
- c. The City of Fayetteville reserves the right to accept or reject any or all proposals.
- d. The City of Fayetteville reserves the right to cancel the entire request for proposal.
- e. The City of Fayetteville reserves the right to remedy or waive technical or immaterial errors in the request for proposal or in proposals submitted.
- f. The City of Fayetteville reserves the right to request any necessary clarifications, additional information or proposal data without changing the terms of the proposal.
- g. The City of Fayetteville reserves the right to make selection of the Proposer to perform the services required on the basis of the original proposals without negotiation.
- h. The City reserves the right to ask for a best and final offer from one or more Proposers. The best and final offer process is not guaranteed; therefore, Proposers shall submit and respond to this RFP on the most favorable terms available.

5. EVALUATION CRITERIA:

The evaluation criterion defines the factors that will be used by the selection committee to evaluate and score responsive, responsible and qualified proposals. Proposers shall include sufficient information to allow the selection committee to thoroughly evaluate and score proposals. Each proposal submitted shall be evaluated and ranked by a selection committee. The contract will be awarded to the most qualified Proposer, per the evaluation criteria listed in this RFP. Proposers are not guaranteed to be ranked.

6. COSTS INCURRED BY PROPOSERS:

All expenses involved with the preparation and submission of proposals to the City, or any work performed in connection therewith, shall be borne solely by the Proposer(s). No payment will be made for any responses received, or for any other effort required of, or made by, the Proposer(s) prior to contract commencement.

7. ORAL PRESENTATION:

An oral presentation and/or interview may be requested of any firm, at the selection committee's discretion.

8. CONFLICT OF INTEREST:

- a. The Proposer represents that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance or services required hereunder, as provided in City of Fayetteville Code Section 34.26 titled "Limited Authority of City Employee to Provide Services to the City".
- b. The Proposer shall promptly notify Amanda Beilfuss, City Sr. Purchasing Agent, in writing, of all potential conflicts of interest for any prospective business association, interest, or other circumstance which may

influence or appear to influence the Proposer's judgment or quality of services being provided. Such written notification shall identify the prospective business association, interest or circumstance, the nature of which the Proposer may undertake and request an opinion to the City as to whether the association, interest or circumstance would, in the opinion of the City, constitute a conflict of interest if entered into by the Proposer. The City agrees to communicate with the Proposer its opinion via e-mail or first-class mail within thirty days of receipt of notification.

9. WITHDRAWAL OF PROPOSAL:

A proposal may be withdrawn prior to the time set for the proposal submittal based on a written request from an authorized representative of the firm; however, a proposal shall not be withdrawn after the time set for the proposal.

10. LATE PROPOSAL OR MODIFICATIONS:

- a. Proposal and modifications received after the time set for the proposal submittal shall not be considered. Modifications in writing received prior to the deadline will be accepted. The City will not be responsible for misdirected bids. Proposers refer to their submission status in the online bidding portal or call the Purchasing Division at (479) 575-8220 to ensure receipt of their submittal documents prior to opening time and date listed.
- b. The time set for the deadline shall be local time for Fayetteville, AR on the date listed. All proposals shall be received in the Purchasing Division BEFORE the deadline stated. The official clock to determine local time shall be the atomic clock located in the Purchasing Division, Room 306 of City Hall, 113 W. Mountain, Fayetteville, AR.

11. CONSTITUTIONAL, STATE, AND FEDERAL COMPLIANCE REQUIREMENTS:

The laws of the State of Arkansas apply to any purchase made under this request for proposal. Proposers shall comply with all constitutional, state, and federal directives, orders and laws as applicable to this proposal and subsequent contract(s) including but not limited to Equal Employment Opportunity (EEO), Disadvantaged Business Enterprises (DBE), & OSHA as applicable to this contract.

12. PROVISION FOR OTHER AGENCIES:

Unless otherwise stipulated by the Proposer, the Proposer agrees to make available to all Government agencies, departments, municipalities, and counties, the proposal prices submitted in accordance with said proposal terms and conditions therein, should any said governmental entity desire to buy under this proposal. Eligible users shall mean all state of Arkansas agencies, the legislative and judicial branches, political subdivisions (counties, local district school boards, community colleges, municipalities, counties, or other public agencies or authorities), which may desire to purchase under the terms and conditions of the contract.

13. COLLUSION:

The Proposer, by affixing his or her signature to this proposal, agrees to the following: "Proposer certifies that their proposal is made without previous understanding, agreement, or connection with any person, firm or corporation making a proposal for the same item(s) and/or services and is in all respects fair, without outside control, collusion, fraud, or otherwise illegal action."

14. RIGHT TO AUDIT, FOIA, AND JURISDICITON:

- a. The City of Fayetteville reserves the privilege of auditing a Contractor's records as such records relate to purchases between the City and said Contractor.
- b. Freedom of Information Act: City contracts and documents prepared while performing City contractual work are subject to the Arkansas Freedom of Information Act. If a Freedom of Information Act request is presented to the City of Fayetteville, the (contractor) will do everything possible to provide the documents in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (A.C.A. §25-19-101 et. seq.). Only legally authorized photocopying costs pursuant to the FOIA may be assessed for this compliance.
- c. Legal jurisdiction to resolve any disputes shall be Arkansas with Arkansas law applying to the case.

15. CITY INDEMNIFICATION:

The successful Proposer(s) agrees to indemnify the City and hold it harmless from and against all claims, liability, loss, damage or expense, including but not limited to counsel fees, arising from or by reason of any actual or claimed trademark, patent or copyright infringement or litigation based thereon, with respect to the services or any part thereof covered by this order, and such obligation shall survive acceptance of the services and payment thereof by the City.

16. VARIANCE FROM STANDARD TERMS & CONDITIONS:

All standard terms and conditions stated in this request for proposal apply to this contract except as specifically stated in the subsequent sections of this document, which take precedence, and should be fully understood by Proposers prior to submitting a proposal on this requirement.

17. ADA REQUIREMENT FOR PUBLIC NOTICES & TRANSLATION:

Persons with disabilities requiring reasonable accommodation to participate in this proceeding/event, should call 479.521.1316 (telecommunications device for the deaf), no later than seven days prior to the deadline. Persons needing translation of this document shall contact the City of Fayetteville, Purchasing Division, immediately.

18. CERTIFICATE OF INSURANCE:

The successful bidder shall provide a Certificate of Insurance in accordance with the following guidelines, prior to commencement of any work: \$1,000,000 Commercial Liability, Statutory Worker's Compensation, and General Automotive, if applicable. SUCH CERTIFICATE SHALL LIST THE CITY OF FAYETTEVILLE AS AN ADDITIONAL INSURED. LISTING THE CITY OF FAYETTEVILLE AS A CERTIFICATE HOLDER ONLY IS NOT AN ACCEPTABLE SUBSTITUTE. CERTIFICATE OF INSURANCE MUST INCLUDE THE ENDORSEMENT SHOWING THE CITY OF FAYETTEVILLE LISTED AS AN ADDITIONAL INSURED. Insurance shall remain valid, when applicable, throughout project completion.

19. PAYMENTS AND INVOICING:

The Proposer must specify in their proposal the exact company name and address which must be the same as invoices submitted for payment as a result of award of this RFP. Further, the successful Proposer is responsible for immediately notifying the Purchasing Division of any company name change, which would cause invoicing to change from the name used at the time of the original RFP. Payment will be made within thirty days of invoice received. The City of Fayetteville is very credit worthy and will not pay any interest or

penalty for untimely payments. **Payments can be processed through Proposer's acceptance of Visa at no additional costs to the City for expedited payment processing.** The City will not agree to allow any increase in hourly rates by the contract without PRIOR Fayetteville City Council approval.

20. CANCELLATION:

- a. The City reserves the right to cancel this contract without cause by giving thirty (30) days prior notice to the Contractor in writing of the intention to cancel or with cause if at any time the Contractor fails to fulfill or abide by any of the terms or conditions specified.
- b. Failure of the contractor to comply with any of the provisions of the contract shall be considered a material breach of contract and shall be cause for immediate termination of the contract at the discretion of the City of Fayetteville.
- c. In addition to all other legal remedies available to the City of Fayetteville, the City reserves the right to cancel and obtain from another source, any items and/or services which have not been delivered within the period of time from the date of order as determined by the City of Fayetteville.
- d. In the event sufficient budgeted funds are not available for a new fiscal period, the City shall notify the Contractor of such occurrence and contract shall terminate of the last day of the current fiscal period without penalty or expense to the City.

21. ASSIGNMENT, SUBCONTRACTING, CORPORATE ACQUISITIONS AND/OR MERGERS:

- a. The Contractor shall perform this contract. No assignment of subcontracting shall be allowed without prior written consent of the City. If a Proposer intends to subcontract a portion of this work, the Proposer shall disclose such intent in the proposal submitted as a result of this RFP.
- b. In the event of a corporate acquisition and/or merger, the Contractor shall provide written notice to the City within thirty (30) calendar days of Contractor's notice of such action or upon the occurrence of said action, whichever occurs first.

22. NON-EXCLUSIVE CONTRACT:

Award of this RFP shall impose no obligation on the City to utilize the Contractor for all work of this type, which may develop during the contract period. This is not an exclusive contract. The City specifically reserves the right to concurrently contract with other companies for similar work if it deems such an action to be in the City's best interest. In the case of multiple-phase contracts, this provision shall apply separately to each item.

23. LOBBYING:

Lobbying of selection committee members, City of Fayetteville employees, or elected officials regarding request for proposals, request for qualifications, bids or contracts, during the pendency of bid protest, by the bidder/proposer/protestor or any member of the bidder's/proposer's/protestor's staff, and agent of the bidder/proposer/protestor, or any person employed by any legal entity affiliated with or representing an organization that is responding to the request for proposal, request for qualification, bid or contract, or has a pending bid protest is strictly prohibited either upon advertisement or on a date established by the City of Fayetteville and shall be prohibited until either an award is final or the protest is finally resolved by the City of Fayetteville; provided, however, nothing herein shall prohibit a prospective/bidder/proposer from

contacting the Purchasing Division to address situations such as clarification and/or questions related to the procurement process. For purposes of this provision lobbying activities shall include but not be limited to, influencing or attempting to influence action or non-action in connection with any request for proposal, request for qualification, bid or contract through direct or indirect oral or written communication or an attempt to obtain goodwill of persons and/or entities specified in this provision. Such actions may cause any request for proposal, request for qualification, bid or contract to be rejected.

24. ADDITIONAL REQUIREMENTS:

The City reserves the right to request additional services relating to this RFP from the Proposer. When approved by the City as an amendment to the contract and authorized in writing prior to work, the Contractor shall provide such additional requirements as may become necessary.

25. SERVICES AGREEMENT:

A written agreement, in substantially the form attached, incorporating the RFP and the successful proposal will be prepared by the City, signed by the successful Proposer and presented to the City of Fayetteville for approval and signature of the Mayor.

26. INTEGRITY OF REQUEST FOR PROPOSAL (RFP) DOCUMENTS:

Proposers shall use the original RFP form(s) provided by the Purchasing Division and enter information only in the spaces where a response is requested. Proposers may use an attachment as an addendum to the RFP form(s) if sufficient space is not available on the original form for the Proposer to enter a complete response. **Any modifications or alterations to the original RFP documents by the Proposer, whether intentional or otherwise, will constitute grounds for rejection of such RFP response.** Any such modifications or alterations a Proposer wishes to propose shall be clearly stated in the Proposer's RFP response and presented in the form of an addendum to the original RFP documents.

27. OTHER GENERAL CONDITIONS:

- a. Proposers must provide the City with their proposals signed by an employee having legal authority to submit proposals on behalf of the Proposer. The entire cost of preparing and providing responses shall be borne by the Proposer.
- b. The City reserves the right to request any additional information it deems necessary from any or all Proposers after the submission deadline.
- c. This solicitation is not to be construed as an offer, a contract, or a commitment of any kind; nor does it commit the City to pay for any costs incurred by Proposer in preparation. It shall be clearly understood that any costs incurred by the Proposer in responding to this request for proposal is at the Proposer's own risk and expense as a cost of doing business. The City of Fayetteville shall not be liable for reimbursement to the Proposer for any expense so incurred, regardless of whether or not the proposal is accepted.
- d. If products, components, or services other than those described in this bid document are proposed, the Proposer must include complete descriptive literature for each. All requests for additional information must be received within five working days following the request.
- e. **Any uncertainties shall be brought to the attention to Amanda Beilfuss immediately via telephone (479.575.8220) or e-mail (abeilfuss@fayetteville-ar.gov).** It is the intent and goal of the City of Fayetteville

Purchasing Division to provide documents providing a clear and accurate understanding of the scope of work to be completed and/or goods to be provided. We encourage all interested parties to ask questions to enable all Proposers to be on equal terms.

- f. Any inquiries or requests for explanation in regard to the City's requirements should be made promptly to Amanda Beilfuss, City of Fayetteville, Sr. Purchasing Agent via e-mail (abeilfuss@fayetteville-ar.gov) or telephone (479.575.8220). No oral interpretation or clarifications will be given as to the meaning of any part of this request for proposal. All questions, clarifications, and requests, together with answers, if any, will be provided to all firms via written addendum. Names of firms submitting any questions, clarifications, or requests will not be disclosed until after a contract is in place.
- g. At the discretion of the City, one or more firms may be asked for more detailed information before final ranking of the firms, which may also include oral interviews.
- h. Any information provided herein is intended to assist the Proposer in the preparation of proposals necessary to properly respond to this RFP. The RFP is designed to provide qualified Proposers with sufficient basic information to submit proposals meeting minimum specifications and/or test requirements but is not intended to limit a RFP's content or to exclude any relevant or essential data.
- i. Proposers irrevocably consent that any legal action or proceeding against it under, arising out of or in any manner relating to this Contract shall be controlled by Arkansas law. Proposer hereby expressly and irrevocably waives any claim or defense in any said action or proceeding based on any alleged lack of jurisdiction or improper venue or any similar basis.
- j. The successful Proposer shall not assign the whole or any part of this Contract or any monies due or to become due hereunder without written consent of City of Fayetteville. In case the successful Proposer assigns all or any part of any monies due or to become due under this Contract, the Instrument of assignment shall contain a clause substantially to the effect that it is agreed that the right of the assignee in and to any monies due or to become due to the successful Proposer shall be subject to prior liens of all persons, firms, and corporations for services rendered or materials supplied for the performance of the services called for in this contract.
- k. The successful Proposer's attention is directed to the fact that all applicable Federal and State laws, municipal ordinances, and the rules and regulations of all authorities having jurisdiction over the services shall apply to the contract throughout, and they will be deemed to be included in the contract as though written out in full herein. The successful Proposer shall keep himself/herself fully informed of all laws, ordinances and regulations of the Federal, State, and municipal governments or authorities in any manner affecting those engaged or employed in providing these services or in any way affecting the conduct of the services and of all orders and decrees of bodies or tribunals having any jurisdiction or authority over same. If any discrepancy or inconsistency should be discovered in these Contract Documents or in the specifications herein referred to, in relation to any such law, ordinance, regulation, order or decree, s/he shall herewith report the same in writing to the City of Fayetteville.

1. INTRODUCTION:

The City of Fayetteville (City) has one facility that contains both the Fayetteville Transfer Station and the Fayetteville Recycling Center (Fayetteville Transfer Station/Recycling Center), located at 1560 S. Happy Hollow Rd. The Transfer portion of this facility utilizes loose-fill technology and is capable of satisfying the present and future solid waste disposal needs of the City of Fayetteville. Design is expandable to allow the Fayetteville Transfer Station to serve Washington County as necessary. During the term of this contract, the City shall deliver all of the municipal, residential, and commercial solid waste streams collected by the City to the City of Fayetteville's Transfer Station. Current annual tonnage hauled from the Transfer Station is approximately 80,000. The City of Fayetteville's Transfer Station is currently permitted to allow up to 100,000 tons per year. The average outbound tonnage is 21 tons per truck and is normally between 10-16 truckloads per day.

2. SCOPE OF WORK:

- a. The awarded Proposer (Contractor) shall be responsible for the performance of all services reasonably necessary to provide for the proper disposal of all residential and commercial waste generated within the City of Fayetteville. Proposer shall provide a narrative describing the proposed operations plan for ensuring that Proposer has the resources and equipment necessary to provide timely, efficient, and cost-effective disposal of the City's solid waste.
- b. The Contractor shall perform the following under this contract:
 - i. All solid waste received at the Fayetteville Transfer Station shall be transported to a permitted and approved disposal site.
 - ii. All solid waste shall be removed from the Transfer Station by the end of each day (Monday through Saturday), including all holidays except New Year's Day, Thanksgiving Day, and Christmas Day. The first transport truck shall be at the City's Transfer Station by 5:30 AM and the last truck leaves approximately between 2:00 PM – 3:00 PM (M-F) and by 11:00 AM on Saturdays.
 - iii. The City of Fayetteville, as the Transfer Station Operator, will be responsible for loading transport trailers with solid waste (payload weights no greater than that required to reach gross vehicle weight limitation set by law). However, in the interest of efficiency, the City is responsible for loading solid waste in such a way that a standard trailer with a capacity of 115 cubic yards will contain a minimum of 20 tons of solid waste.
 - iv. Transporting of all solid waste shall be contained, tied, or enclosed, so that leaking, spilling, or blowing of waste is prevented.
 - v. Proposer shall provide detailed inventory of assets illustrating that there is an adequate number of vehicles, trailers, and backup equipment, maintained in good physical condition. Information on all proposed labor, supervisors, maintenance, fuel, and necessary supplies to ensure the daily systematic and satisfactory performance of all services specified in this scope of work shall also be provided.

3. PROPOSAL REQUIREMENTS:

In addition to submitting the completed and signed RFP form, Proposers shall also include the following with Proposal:

- a. An itemized list of Proposer's equipment available for use on this Contract, or an itemized list of proposed equipment with proof of financial strength to procure proposed equipment upon Contract award. Contractor shall provide trucks, trailers, and any necessary equipment to dump at landfill or disposal site.
- b. A copy of most recent, certified financial statement of Proposer, (or its parent corporation if individual subsidiary or division financial statements are not prepared and/or available) certified by a certified public accountant (CPA) firm.
- c. Evidence, in form and substance satisfactory to the City of Fayetteville, that Proposer (or Proposer's subsidiary or affiliate) has been in business at least five (5) years and possesses not less than three (3) years actual operating experience in solid waste transport and/or disposal handling no less than 50,000 tons per year.
- d. Name and location of landfill or disposal site, including evidence, in form and substance satisfactory to the City of Fayetteville, that the landfill or disposal site shall have a life in excess of the Contract length and that proposed disposal site meets the requirements of EPA subtitle D, when applicable, and documentation from disposal site owner that any further district, state, and federal requirements will be met through the duration of the Contract. If disposal site other than a landfill is proposed, a copy of disposal site's permit for operation shall be included with Proposal.
- e. A copy of the Proposer's Environmental Policy Statement as well as any records of past environmental issues.
- f. A letter from a corporate surety satisfactory to the City stating that the Performance Bond(s) will be furnished by it to the person submitting the proposal in the event it is the successful proposer. Such letter is to be signed by an authorized representative of the surety together with a certified and effectively dated copy of the power of attorney attached thereto. The Contractor responsible for the transportation and disposal of solid waste received at the Fayetteville Transfer Station will be required to furnish a corporate surety bond as security for the performance of the Contract. This surety bond shall be in the amount of one hundred percent (100%) of the total negotiated price approved by Fayetteville City Council for the first year of the contract. Contractor will have ten (10) business days from Contract approval by Fayetteville City Council to provide the bond. A one hundred (100%) surety bond will be required annually with contract renewal at the estimated tonnage of the 80,000 tons. The premium for the bond(s) described above shall be paid by the Contractor. A certificate from the surety showing that the bond premium(s) is/are paid in full shall accompany the bond. The surety on the bond shall be from corporate surety company duly authorized to do business in the State of Arkansas. Bonds must be written by an "A" rated bonding company.

4. PRICING

- a. Proposals shall include all-inclusive pricing for the hauling and disposal of all solid waste received at the Fayetteville Transfer Station at a properly licensed and permitted disposal facility and for the daily transport of all solid waste received at the Fayetteville Transfer Station. The price and rates proposed shall

remain firm for the first two (2) years of the contract. If there are any price increases/changes during the remainder of the Contract, this information shall be included in the Proposal as well.

5. CONTRACT FORMATION:

If the negotiation produces mutual agreement, a contract will be considered for approval by the City of Fayetteville City Council. If negotiations with the highest-ranking Proposer fail, negotiations may be initiated with the next highest-ranking Proposer until an agreement is reached. The City reserves the right to reject all offers and end the process without executing a contract.

6. CONTRACT TERMS:

The City of Fayetteville intends to enter a three (3) year contract with the awarded Proposer with the option to renew for four (4) additional three (3) year terms.

7. PROPOSAL CONTENT:

Proposals shall be prepared simply and economically, providing a straightforward, concise description its ability to meet the requirements for the project. Fancy bindings, colored displays, and promotional material are not required. Emphasis should be on completeness and clarity of content. All documents should be typewritten on standard 8 ½" x 11" white pages and bound in one volume. Exceptions would be schematics, exhibits, or other information necessary to facilitate the City of Fayetteville's ability to accurately evaluate the proposal. Limit proposal to twenty-five (25) pages or less, excluding one-page team resumes, references, and forms required by the City for completion.

8. SELECTION CRITERIA:

The following criteria will be used by the City to evaluate and score responsive proposals. Proposers shall include sufficient information to allow the City to thoroughly evaluate and score the proposal. Each proposal submitted is not required to be ranked by the selection committee. The contract may be awarded to the most qualified firm, per the evaluation criteria listed below, based on the evaluation of the selection committee. Following the evaluation of the proposals, the Selection Committee may request that the top-ranking firm(s) make an oral presentation or be interviewed. If presentations are necessary, they will take place in Fayetteville, Arkansas. Notices will be sent by the Purchasing Division.

- 1) 20% **Qualifications in Relation to Specific Project to be Performed:** Information reflecting qualifications of the consultant, partners, and project team. Indicated specialized experience and technical competence of the firm in connection with the type and complexity of the service required. Subcontractors, if used, shall be listed with information on their organization.
- 2) 20% **Experience, Competence, and Capacity for Performance:** Information reflecting the names, titles, and qualifications (including experience and technical competence) of the major personnel assigned to this specific project.
- 3) 30% **Proposed Method of Doing Work:** A proposed work plan (description of how the project would be conducted as well as other facts concerning approach to scope) indicating methods and schedules for accomplishing scope of work. Include with this the amount of work presently underway.

- 4) 10% **Past Performance:** Previous evaluations shall be considered a significant factor. If previous evaluations with the City are not available, the professional firm's past performance records with City and others will be used, including quality of work, timely performance, diligence, and any other pertinent information. Firm will provide a list of similar jobs performed and person whom the City can contact for information.
- 5) 20% **Cost/Fees:** Complete costs and fees as described in this RFP and for delivery of the proposal including fiscal feasibility and financial stability. All fees shall be clearly identified with RFP response and be itemized.

CONTINUES ON NEXT PAGE

City of Fayetteville
RFP 24-09, Waste Transfer and Disposal Services
SECTION C: Proposer References

The following information is required from all firms so all statements of qualification may be reviewed and properly evaluated:

COMPANY NAME: _____

NUMBER OF YEARS IN BUSINESS: _____ HOW LONG IN PRESENT LOCATION: _____

TOTAL NUMBER OF CURRENT EMPLOYEES: _____ FULL TIME _____ PART TIME

NUMBER OF EMPLOYEES PLANNED FOR THIS CONTRACT: _____ FULL TIME _____ PART TIME

PLEASE LIST FOUR (4) REFERENCES THAT YOU HAVE PREVIOUSLY PERFORMED CONTRACT SERVICES FOR WITHIN THE PAST FIVE (5) YEARS (All fields must be completed):

1. _____
COMPANY NAME

CITY, STATE, ZIP

CONTACT PERSON

TELEPHONE

FAX NUMBER

E-MAIL ADDRESS

3. _____
COMPANY NAME

CITY, STATE, ZIP

CONTACT PERSON

TELEPHONE

FAX NUMBER

E-MAIL ADDRESS

2. _____
COMPANY NAME

CITY, STATE, ZIP

CONTACT PERSON

TELEPHONE

FAX NUMBER

E-MAIL ADDRESS

4. _____
COMPANY NAME

CITY, STATE, ZIP

CONTACT PERSON

TELEPHONE

FAX NUMBER

E-MAIL ADDRESS

1. DISCLOSURE INFORMATION

- a. Proposer must disclose any possible conflict of interest with the City of Fayetteville, including, but not limited to, any relationship with any City of Fayetteville employee. Proposer response must disclose if a known relationship exists between any principal or employee of your firm and any City of Fayetteville employee or elected City of Fayetteville official.
- i. If, to your knowledge, no relationship exists, this should also be stated in your response. Failure to disclose such a relationship may result in cancellation of a purchase and/or contract as a result of your response. This form must be completed and returned in order for your bid/proposal to be eligible for consideration.

PLEASE CHECK ONE OF THE FOLLOWING TWO OPTIONS, AS IT APPROPRIATELY APPLIES TO YOUR FIRM:

_____ 1) NO KNOWN RELATIONSHIP EXISTS

_____ 2) RELATIONSHIP EXISTS (Please explain): _____

- b. I certify that; as an officer of this organization, or per the attached letter of authorization, am duly authorized to certify the information provided herein is accurate and true; and my organization shall comply with all State and Federal Equal Opportunity and Non-Discrimination requirements and conditions of employment.
- c. Proposer agrees that they shall have a current, valid registration with the Arkansas Secretary of State at time of RFP deadline OR be able to provide proof of registration before recommendation of award to Fayetteville City Council.
- d. Pursuant Arkansas Code Annotated §25-1-503, the Contractor agrees and certifies that they do not currently boycott Israel and will not boycott Israel during any time in which they are entering into, or while in contract, with any public entity as defined in §25-1-503. If at any time during contract the contractor decides to boycott Israel, the contractor must notify the contracted public entity in writing.
- e. Pursuant Arkansas Code Annotated §25-1-1002, the Contractor agrees and certifies that they do not currently boycott Energy, Fossil Fuel, Firearms, and Ammunition Industries during any time in which they are entering into, or while in contract, with any public entity as defined in §25-1-1002. If at any time during the contract the contractor decides to boycott Energy, Fossil Fuel, Firearms, and/or Ammunition Industries, the contractor must notify the contracted public entity in writing.

2. PRIMARY CONTACT INFORMATION

At the discretion of the City, one or more firms may be asked for more detailed information before final ranking of the firms, which may also include oral interviews. **NOTE: Each Proposer shall submit to the City a primary contact name, e-mail address, and phone number (preferably a cell phone number) where the City selection committee can call for clarification or interview via telephone.**

Corporate Name of Firm: _____

Primary Contact: _____ Title of Primary Contact: _____

Phone#1 (cell preferred): _____ Phone#2: _____

E-Mail Address: _____

3. ACKNOWLEDGEMENT OF ADDENDA

Acknowledge receipt of addenda for this invitation to bid, request for proposal, or request for qualification by signing and dating below. All addendums are hereby made a part of the bid or RFP documents to the same extent as though it were originally included therein. Proposers/Bidders should indicate their receipt of same in the appropriate blank listed herein. Failure to do so may subject Contractor to disqualification.

ADDENDUM NO.	SIGNATURE AND PRINTED NAME	DATE ACKNOWLEDGED

4. DEBARMENT CERTIFICATION:

- As an interested party on this project, you are required to provide debarment/suspension certification indicating compliance with the below Federal Executive Order. Certification can be done by completing and signing this form.
- Federal Executive Order (E.O.) 12549 "Debarment and Suspension" requires that all contractors receiving individual awards, using federal funds, and all sub-recipients certify that the organization and its principals are not debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency from doing business with the Federal Government.
- Signature certifies that neither you nor your principal is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

5. SIGNATURE SUBMITTAL:

NAME OF COMPANY: _____

PHYSICAL ADDRESS: _____

MAILING ADDRESS: _____

TAX ID #: _____ AR. SECRETARY OF STATE FILING #: _____

PHONE: _____ FAX: _____

E-MAIL: _____

By submitting your response, you certify that you are authorized to represent and bind your company :

SIGNATURE: _____

PRINTED NAME: _____

TITLE: _____ DATE: _____

END OF RFP DOCUMENT

APPENDIX B: Fuel Surcharge Calculator

Fuel Base		\$ 3.50	Destination	ECO VISTA
Average Fuel Price based on:			Round Trip Miles	44
EIA Padd 2 Midwest			Surcharge/Mile	Surcharge/Load
\$ 2.1501	to	\$ 2.20	\$ (0.26)	\$ (11.44)
\$ 2.2001	to	\$ 2.25	\$ (0.25)	\$ (11.00)
\$ 2.2501	to	\$ 2.30	\$ (0.24)	\$ (10.56)
\$ 2.3001	to	\$ 2.35	\$ (0.23)	\$ (10.12)
\$ 2.3501	to	\$ 2.40	\$ (0.22)	\$ (9.68)
\$ 2.4001	to	\$ 2.45	\$ (0.21)	\$ (9.24)
\$ 2.4501	to	\$ 2.50	\$ (0.20)	\$ (8.80)
\$ 2.5001	to	\$ 2.55	\$ (0.19)	\$ (8.36)
\$ 2.5501	to	\$ 2.60	\$ (0.18)	\$ (7.92)
\$ 2.6001	to	\$ 2.65	\$ (0.17)	\$ (7.48)
\$ 2.6501	to	\$ 2.70	\$ (0.16)	\$ (7.04)
\$ 2.7001	to	\$ 2.75	\$ (0.15)	\$ (6.60)
\$ 2.7501	to	\$ 2.80	\$ (0.14)	\$ (6.16)
\$ 2.8001	to	\$ 2.85	\$ (0.13)	\$ (5.72)
\$ 2.8501	to	\$ 2.90	\$ (0.12)	\$ (5.28)
\$ 2.9001	to	\$ 2.95	\$ (0.11)	\$ (4.84)
\$ 3.00	to	\$ 3.0499	\$ (0.10)	\$ (4.40)
\$ 3.05	to	\$ 3.0999	\$ (0.09)	\$ (3.96)
\$ 3.10	to	\$ 3.1499	\$ (0.08)	\$ (3.52)
\$ 3.15	to	\$ 3.1999	\$ (0.07)	\$ (3.08)
\$ 3.20	to	\$ 3.2499	\$ (0.06)	\$ (2.64)
\$ 3.25	to	\$ 3.2999	\$ (0.05)	\$ (2.20)
\$ 3.30	to	\$ 3.3499	\$ (0.04)	\$ (1.76)
\$ 3.35	to	\$ 3.3999	\$ (0.03)	\$ (1.32)
\$ 3.40	to	\$ 3.4499	\$ (0.02)	\$ (0.88)
\$ 3.45	to	\$ 3.4999	\$ (0.01)	\$ (0.44)
\$ 3.50	to	\$ 3.5499	\$ -	\$ -
\$ 3.55	to	\$ 3.5999	\$ 0.01	\$ 0.44
\$ 3.60	to	\$ 3.6499	\$ 0.02	\$ 0.88
\$ 3.65	to	\$ 3.6999	\$ 0.03	\$ 1.32
\$ 3.70	to	\$ 3.7499	\$ 0.04	\$ 1.76
\$ 3.75	to	\$ 3.7999	\$ 0.05	\$ 2.20
\$ 3.80	to	\$ 3.8499	\$ 0.06	\$ 2.64
\$ 3.85	to	\$ 3.8999	\$ 0.07	\$ 3.08
\$ 3.90	to	\$ 3.9499	\$ 0.08	\$ 3.52
\$ 3.95	to	\$ 3.9999	\$ 0.09	\$ 3.96
\$ 4.00	to	\$ 4.0499	\$ 0.10	\$ 4.40
\$ 4.05	to	\$ 4.0999	\$ 0.11	\$ 4.84
\$ 4.10	to	\$ 4.1499	\$ 0.12	\$ 5.28
\$ 4.15	to	\$ 4.1999	\$ 0.13	\$ 5.72

\$ 4.20	to	\$ 4.2499	\$ 0.14	\$ 6.16
\$ 4.25	to	\$ 4.2999	\$ 0.15	\$ 6.60
\$ 4.30	to	\$ 4.3499	\$ 0.16	\$ 7.04
\$ 4.35	to	\$ 4.3999	\$ 0.17	\$ 7.48
\$ 4.40	to	\$ 4.4499	\$ 0.18	\$ 7.92
\$ 4.45	to	\$ 4.4999	\$ 0.19	\$ 8.36
\$ 4.50	to	\$ 4.5499	\$ 0.20	\$ 8.80
\$ 4.55	to	\$ 4.5999	\$ 0.21	\$ 9.24
\$ 4.60	to	\$ 4.6499	\$ 0.22	\$ 9.68
\$ 4.65	to	\$ 4.6999	\$ 0.23	\$ 10.12
\$ 4.70	to	\$ 4.7499	\$ 0.24	\$ 10.56
\$ 4.75	to	\$ 4.7999	\$ 0.25	\$ 11.00
\$ 4.80	to	\$ 4.8499	\$ 0.26	\$ 11.44
\$ 4.85	to	\$ 4.8999	\$ 0.27	\$ 11.88
\$ 4.90	to	\$ 4.9499	\$ 0.28	\$ 12.32
\$ 4.95	to	\$ 4.9999	\$ 0.29	\$ 12.76
\$ 5.00	to	\$ 5.0499	\$ 0.30	\$ 13.20
\$ 5.05	to	\$ 5.0999	\$ 0.31	\$ 13.64
\$ 5.10	to	\$ 5.1499	\$ 0.32	\$ 14.08
\$ 5.15	to	\$ 5.1999	\$ 0.33	\$ 14.52
\$ 5.20	to	\$ 5.2499	\$ 0.34	\$ 14.96
\$ 5.25	to	\$ 5.2999	\$ 0.35	\$ 15.40
\$ 5.30	to	\$ 5.3499	\$ 0.36	\$ 15.84
\$ 5.35	to	\$ 5.3999	\$ 0.37	\$ 16.28
\$ 5.40	to	\$ 5.4499	\$ 0.38	\$ 16.72
\$ 5.45	to	\$ 5.4999	\$ 0.39	\$ 17.16
\$ 5.50	to	\$ 5.5499	\$ 0.40	\$ 17.60
\$ 5.55	to	\$ 5.5999	\$ 0.41	\$ 18.04
\$ 5.60	to	\$ 5.6499	\$ 0.42	\$ 18.48
\$ 5.65	to	\$ 5.6999	\$ 0.43	\$ 18.92
\$ 5.70	to	\$ 5.7499	\$ 0.44	\$ 19.36
\$ 5.75	to	\$ 5.7999	\$ 0.45	\$ 19.80
\$ 5.80	to	\$ 5.8499	\$ 0.46	\$ 20.24
\$ 5.85	to	\$ 5.8999	\$ 0.47	\$ 20.68
\$ 5.90	to	\$ 5.9499	\$ 0.48	\$ 21.12
\$ 5.95	to	\$ 5.9999	\$ 0.49	\$ 21.56
\$ 6.00	to	\$ 6.0499	\$ 0.50	\$ 22.00
\$ 6.05	to	\$ 6.0999	\$ 0.51	\$ 22.44
\$ 6.10	to	\$ 6.1499	\$ 0.52	\$ 22.88
\$ 6.15	to	\$ 6.1999	\$ 0.53	\$ 23.32
\$ 6.20	to	\$ 6.2499	\$ 0.54	\$ 23.76
\$ 6.25	to	\$ 6.2999	\$ 0.55	\$ 24.20
\$ 6.30	to	\$ 6.3499	\$ 0.56	\$ 24.64
\$ 6.35	to	\$ 6.3999	\$ 0.57	\$ 25.08

\$ 6.40	to	\$ 6.4499	\$ 0.58	\$ 25.52
\$ 6.45	to	\$ 6.4999	\$ 0.59	\$ 25.96
\$ 6.50	to	\$ 6.5499	\$ 0.60	\$ 26.40
\$ 6.55	to	\$ 6.5999	\$ 0.61	\$ 26.84
\$ 6.60	to	\$ 6.6499	\$ 0.62	\$ 27.28

APPENDIX C

Additional Forms:

June 6, 2024

WM's proposal in response to the City's RFP is conditioned on the following exceptions:

1. These exceptions are part of WM's bid proposal package and are intended to become part of the final negotiated contract between the parties and/or these exceptions should be included in the services agreement and contract documents (hereinafter the "Contract") referenced in Section 25 of the General Terms and Conditions (hereinafter the "Terms") on page 9 of the RFP.
2. WM takes exception to certain language in Section 12 of the Terms on page 6 of the RFP that states the bidder agrees to make the proposed prices for this RFP available to all government entities. WM objects to this stipulation and requires individual governmental entities to bid separately for disposal services because service routes and equipment may be unique.
3. WM wishes to clarify certain language in Section 14(a) of Terms on page 7 of the RFP concerning the right to audit WM's records. WM will maintain accurate records whereby the City may inspect any books, records and/or accounts, which shall be limited to information concerning WM's bonds, insurance, services provided, and rates charged per the final contract. Beyond that, WM takes exception. The City shall not have the right to audit WM's records or books to determine profits or general administrative and overhead expenses. Additionally, WM requires prior reasonable written notice to audit such records at WM's corporate headquarters in Houston, TX.
4. WM agrees to defend and indemnify the City against damages, claims, costs, and lawsuits to the extent arising out of WM's negligent acts or omissions and willful misconduct or its violation of any applicable law. WM takes exception to the indemnification language in Section 15 of the Terms on page 7 of the RFP, which is overbroad and would make WM responsible for potential claims or damages it did not cause. WM reserves the right to negotiate mutually agreeable language regarding its indemnification obligations.
5. WM has sufficient insurance to meet the City's insurance policy limit requirements in Section 18 of the Terms on page 7 of the RFP; however, WM takes exception certain language in Section 18 regarding the City's additional insured status on grounds that additional insured status is not allowed on WM's workers' compensation nor its employer's liability policies.
6. WM takes exception to the language in Section 20(a) of the Terms on page 8 of the RFP that allows the City to terminate the Contract without cause on 30 days' notice. WM is committing equipment and labor to provide its services and cannot agree to a termination without cause provision. Furthermore, WM requires the right to cure any alleged failures or deficiencies within 30 days after receipt of notice from the City before the City can terminate the Contract for cause. WM takes exception to the language that allows the City to immediately terminate the Contract for cause without a right for WM to cure.
7. WM objects to the language in Section 20(b) of the Terms on page 8 of the RFP pertaining to the City's right to immediately cancel the Contract in the event of an alleged breach of contract. WM requires the right to cure any alleged failures, deficiencies or breaches within 30 days after receipt of notice from the City before the City can terminate the Contract for cause. WM takes exception to the language that allows the City to immediately terminate the Contract for cause without a right for WM to cure.
8. Regarding the language in Section 20(c) of the Terms on page 8 of the RFP pertaining to the City's right to cancel the Contract and obtain services from another source, WM requires that if its services are not satisfactory or are determined to be inconsistent with the Contract or the City's order that the City provide WM with written notice of the failure or alleged inconsistency and allow WM at least 30 days

from receipt of such notice to cure the failure(s) or refute the inconsistency before the City has the right to terminate the Contract. Such notice to WM should normally be made close in time to the service date in question.

9. WM's proposal is based on being exclusively awarded all the transportation and disposal services encompassed within the RFP and included in WM's proposal. WM takes exception to the language in Section 22 of the Terms on page 8 of the RFP that allows the City to concurrently contract with other companies for similar work if the City deems such action to be in the City's best interest.
10. WM wishes to clarify the language in Section 24 of the Terms on page 9 of the RFP regarding the right of the City to request additional services under this RFP. WM requires that any such additional services shall be mutually agreed upon by WM and memorialized in a written amendment to the Contract that is been executed by both parties. To the extent otherwise, WM takes exception.
11. WM objects to the language in Section 4 of the Scope of Services and General Information (hereinafter the "Scope") on page 12 of the RFP requiring WM's rates to remain firm for the first two years of the Contract. WM requires a base rate for its services as set forth in the proposal, which the rate can be kept firm for only the first two years of the Contract. Thereafter, the base rate shall be adjusted annually based on the average monthly increase during the applicable 12-month period in the Consumer Price Index for Water, Sewer, and Trash. This methodology will be used annually during the initial and any renewal terms. The following is a representation of the annual rate adjustments calculation:

Annual Adjustments. The parties agree that beginning on XXX and on each XXXX thereafter, the Base Rates will be adjusted by the percentage increase equal to the annual percentage change in the average Consumer Price Index, US City Average for All Urban Consumers, Water, Sewer Trash, Not Seasonally Adjusted, (published by the United States Bureau of Labor Statistics, Consumer Price Index (the "CPI") over the 12 most recently published months compared to the average CPI for the previous 12-month period. The CPI published on the first Monday prior to the end of the month (or the first business day thereafter if such Monday is a Federal Holiday) shall be used to determine the monthly change. The annual percentage change shall be calculated by subtracting the average CPI value for the previous 12-months from the average CPI value for the most recent 12-month period, the result of which shall be divided by the prior 12-month period average. An example of the CPI annual increase calculation follows:

January 2020 through December 2020 compared to January 2021 to December 2021

Index	2020 12-Month Average	2021 12-Month Average	Change	Applied Percentage Change
CPI – Water, Sewer, Trash	252.46	261.47	9.01	3.6% (9.01/252.46)

The calculated change shall be carried to three places to the right of the decimal and rounded to the nearest thousandths. The percentage adjustment will be applied to the then current rates for services, as adjusted hereunder. In the event the U.S. Department of Labor, Bureau of Labor Statistics ceases to publish the CPI, the parties hereto agree to substitute another equally authoritative measure of change in the purchasing power of the U.S. dollar as may be then available so as to carry out the intent of this provision.

12. WM takes exception to the language in Section 6 of the Scope on page 13 of the RFP that says the City has the option to renew or extend the Contract. WM requires that any renewal options must be mutually agreed to by both parties in writing.

13. WM requires the final contract between the parties to include language that accurately reflects the scope of services and rights and obligations agreed to by the parties, as well as, necessary definitions, including but not limited to, the following:

a. WM requires a definition for “Disposal Facility” to mean the landfill known as the Eco-Vista Landfill, located at 2210 WM Drive, Springdale, AR 72762, which is which is utilized, owned, and operated by WM and permitted to receive Solid Waste, Yard Waste, C&D and/or Special Waste by the applicable federal, state, and/or local agency.

b. WM requires a definition for “Transfer Station” to mean the Fayetteville Solid Waste Transfer Station, located at 1560 S. Happy Hollow Road, Fayetteville, Arkansas 72701, which is utilized, owned and operated by the City and permitted to receive Solid Waste, Yard Waste, C&D and/or Special Waste by the applicable federal, state, and/or local agency.

c. WM requires a definition for “Solid Waste” or “Waste” to mean all non-hazardous Garbage, Rubbish, Yard Waste and/or C&D that can legally be received at the Transfer Station and Disposal Facility. The term “Solid Waste” or “Waste” specifically excludes Unacceptable Waste.

d. WM requires a definition for “Acceptable Waste” to mean Waste that may be legally received and accepted at the Transfer Station and the Disposal Facility. Acceptable Waste shall not include any Hazardous Waste, toxic wastes, Special Waste that has not been profiled and pre-approved in by WM in writing, as defined below and by Federal, State or local law or regulations, or any other waste, which is not acceptable under Federal, State or local law, regulations, or permit at the Transfer Station or Disposal Facility.

e. WM requires a definition “Garbage” to mean Waste consisting of putrescible or animal and vegetable waste materials resulting from the handling, preparation, cooking, and consumption of food, including waste materials from markets, storage facilities, handling and sale of produce and other food products, and all dead animals of less than ten pounds (10 lbs) in weight, except those slaughtered for human consumption.

f. WM requires a definition of “Yard Waste” to mean any vegetative matter resulting from private landscaping or regular yard maintenance, including, but not limited to, tree limbs, branches, yard debris, bagged grass clippings and bagged leaves, excluding items over six (6) feet long and four (4) inches in diameter.

g. WM requires a definition of “Rubbish” to mean nonputrescible Solid Waste (excluding ashes), consisting of both combustible and noncombustible waste materials. Combustible rubbish includes paper, rags, cartons, wood, excelsior, furniture, rubber, plastics or similar materials; noncombustible rubbish includes glass, crockery, tin cans, aluminum cans, metal furniture, and similar materials that will not burn at ordinary incinerator temperatures (1,600 degrees Fahrenheit to 1,800 degrees Fahrenheit).

h. WM requires a definition of “Medical Waste” to mean Waste generated by health care related facilities and associated with health care activities, not including Garbage or Rubbish generated from offices, kitchens, or other non-health-care activities. The term includes Special Waste from health care-related facilities which is comprised of animal waste, bulk blood and blood products, microbiological waste, pathological waste, and sharps as those terms are defined in in Ark. Code Ann. §20-32-101 (relating to Definitions).

i.WM requires a definition for "Construction and Demolition Debris" or "C&D" to mean materials resulting from construction, remodeling, repair, or demolition operations. Such materials include, but are not limited to, dirt, sand, rock, bricks, plaster, gypsum wallboard, aluminum, glass, asphalt material, plastic pipe, roofing material, carpeting, concrete, wood, masonry, trees, remnants of new construction materials, including paper, plastic, carpet scraps, wood scraps, scrap metal, building materials, and packaging. With the exception of soil, concrete and asphalt, Construction and Demolition Debris does not include Unacceptable Waste.

j.WM requires a definition for "Special Waste" to mean waste materials that require special handling and management due to the nature of the waste, including, but not limited to, the following: (i.) containerized waste (e.g. a drum, barrel, portable tank, box, pail, etc.), (ii.) waste transported in bulk tanker, (iii.) liquid waste, (iv.) sludge waste, (v.) waste from an industrial process, (vi.) waste from a pollution control process, (vii.) residue and debris from the cleanup of a spill or release of chemical(s), or (viii.) any other waste defined by applicable law, rule or regulation as "Special Waste."

k.WM requires a definition for "Unacceptable Waste" to mean any waste or material that (i) the acceptance and handling of which by WM would cause a violation of any permit, condition, legal or regulatory requirement, (ii) can cause substantial damage to WM's equipment or facilities, (iii) presents a danger to the health or safety of the public or WM's employees, (iv) is or contains Hazardous Waste, industrial waste, liquid waste, Special Waste that has not been profiled and pre-approved by WM, untreated Medical Waste, dead animals weighing ten pounds (10 lbs.) or greater, (v) is or contains solid or dissolved material in domestic sewage, or solid or dissolved material in irrigation return flows, or industrial discharges subject to regulation by permit, or (vi) results from activities associated with the exploration, development, or production of oil or gas or geothermal resources, (vii) is or contains fuels, (viii) is or contains motor oil or paint, (ix) is or contains televisions, (x) is or contains batteries, (xi) is or contains florescent light bulbs, (xii) is or contains white goods (household appliances), (xiii) is or contains treated/de-characterized wastes, (xiv) is or contains any waste tires, (xvi) is or contains sludge, (xivii) is or contains waste or materials that may adversely affect the operations of the disposal facility or transfer station regardless if such waste or materials could be legally received, and/or (xiviii) is or contains other solid or liquid waste specifically prohibited for disposal at the Disposal Facility or Transfer Station by Arkansas Department of Environmental Quality (ADEQ) or any other regulatory agency having jurisdiction over such landfill, in accordance with applicable law. Title to and liability for Unacceptable Waste shall remain with the generator all times. WM has no obligation to accept, transport, process or dispose of any Unacceptable Waste.

l.If the City tenders Unacceptable Waste in breach of the final negotiated contract between the parties, WM may in its sole discretion either remove, manage, handle, store, treat, and/or dispose of that Unacceptable Waste and charge the City for the costs, expenses, damages, fines, and penalties arising out of such activities or require the City to promptly remove, manage, handle, or dispose of the Unacceptable Waste from the Disposal Facility at the City's sole cost. The City shall pay or reimburse WM for any and all costs, damages and/or fines incurred as a result of or relating to the City's tender or delivery of Unacceptable Waste, including costs of inspection, testing, analysis, legal fees, professional consulting fees, or removal costs.

m.A force majeure" clause providing that neither party shall be in default for its failure to perform or suspend performance, in whole or in part, due to events or threats of events beyond its reasonable control, whether or not foreseeable, including, but not limited to, fires, floods, tornadoes, hurricanes, ice storms, acts of war or terrorism, riots, epidemics, pandemics, imposition of new or modified domestic or foreign laws, governmental orders, acts of God, and the inability to obtain labor, materials or equipment due to the foregoing circumstances. The affected party shall be excused from performance during the occurrence of such events.

n.If the City fails to timely pay WM’s invoices, WM shall have the right to assess a late fee or late charge to the extent allowed by law. WM also shall have, upon providing written notice to City, the right to suspend its services if payment is more than 60 days’ past due.

o.WM is entitled to an increase in its rates to offset changes in conditions that WM does not control, but which increase WM’s costs, such as changes in or new governmental laws, ordinances, rules, regulations or the enforcement thereof, changes in landfill disposal rates, and other conditions that increase WM’s costs. WM agrees to give the City thirty (30) days' written notice of such increase, and to provide documentation substantiating such increase.

p.WM requires the City to pay a Quarterly True Up payment to WM if the City is performing the loading of Solid Waste at the Transfer Station. If the City does not achieve a twenty (20) or twenty-three (23) tons per load quarterly average(City selects 20 or 23 ton price structure), then the City shall pay to WM the difference for any short falls as set forth per the following example below (“Quarterly True Up”).

Quarterly True up	
Example: Fayetteville to ECO at 23 tpl	
Minimum TPL:	23
Rate Per Ton:	\$14.67
Quarterly Total Tons:	1,000
Quarterly Total Loads:	45
Quarterly Average TPL (Total Tons/Total Loads):	22.22
Missed Average TPL (Minimum TPL-Quarterly Average TPL):	0.78
Missed Tons (Quarterly Total Loads x Missed Average TPL):	35
WM Pays MBI For Minimum Charges (Missed Tons x Rate Per Ton):	\$513.45

q.WM requires the City to pay a fuel surcharge in addition to the base rates for transportation, disposal and any Quarterly True Up payment. The City shall pay a fuel surcharge as follows (“Fuel Surcharge”): In the event that the price of fuel deviates from the threshold price per gallon, a mileage based fuel surcharge (or discount) shall be applied on a per haul basis. The surcharge will increase or decrease by one cent (\$.01) per mile for every 5-cent increase or decrease in the price of diesel fuel above or below the threshold price of \$3.00 per gallon, as determined by the corresponding per mile surcharge shown in the table below. Calculations shall be made the first week of each month based upon the United States Energy Information Administration’s (EIA) U.S. On-Highway Diesel Fuel Price Index for PADD 2 (Midwest) price as reported on their website at <http://www.eia.gov/petroleum/gasdiesel/> or phone no. (202) 586-6966, will be used as typically announced each Monday, or on Tuesday when Monday is a federal holiday*.

FSC Calculator			
Fuel Base	\$ 3.00	Destination	ECO VISTA

Average Fuel Price based on:			Round Trip Miles	44
EIA Padd 2 Midwest			Surcharge/Mile	Surcharge/Load
\$ 2.1501	to	\$ 2.20	\$ (0.16)	\$ (7.04)
\$ 2.2001	to	\$ 2.25	\$ (0.15)	\$ (6.60)
\$ 2.2501	to	\$ 2.30	\$ (0.14)	\$ (6.16)
\$ 2.3001	to	\$ 2.35	\$ (0.13)	\$ (5.72)
\$ 2.3501	to	\$ 2.40	\$ (0.12)	\$ (5.28)
\$ 2.4001	to	\$ 2.45	\$ (0.11)	\$ (4.84)
\$ 2.4501	to	\$ 2.50	\$ (0.10)	\$ (4.40)
\$ 2.5001	to	\$ 2.55	\$ (0.09)	\$ (3.96)
\$ 2.5501	to	\$ 2.60	\$ (0.08)	\$ (3.52)
\$ 2.6001	to	\$ 2.65	\$ (0.07)	\$ (3.08)
\$ 2.6501	to	\$ 2.70	\$ (0.06)	\$ (2.64)
\$ 2.7001	to	\$ 2.75	\$ (0.05)	\$ (2.20)
\$ 2.7501	to	\$ 2.80	\$ (0.04)	\$ (1.76)
\$ 2.8001	to	\$ 2.85	\$ (0.03)	\$ (1.32)
\$ 2.8501	to	\$ 2.90	\$ (0.02)	\$ (0.88)
\$ 2.9001	to	\$ 2.95	\$ (0.01)	\$ (0.44)
\$ 3.00	to	\$ 3.0499	\$ -	\$ -
\$ 3.05	to	\$ 3.0999	\$ 0.01	\$ 0.44
\$ 3.10	to	\$ 3.1499	\$ 0.02	\$ 0.88
\$ 3.15	to	\$ 3.1999	\$ 0.03	\$ 1.32
\$ 3.20	to	\$ 3.2499	\$ 0.04	\$ 1.76
\$ 3.25	to	\$ 3.2999	\$ 0.05	\$ 2.20
\$ 3.30	to	\$ 3.3499	\$ 0.06	\$ 2.64
\$ 3.35	to	\$ 3.3999	\$ 0.07	\$ 3.08
\$ 3.40	to	\$ 3.4499	\$ 0.08	\$ 3.52
\$ 3.45	to	\$ 3.4999	\$ 0.09	\$ 3.96
\$ 3.50	to	\$ 3.5499	\$ 0.10	\$ 4.40
\$ 3.55	to	\$ 3.5999	\$ 0.11	\$ 4.84

\$ 3.60	to	\$ 3.6499	\$ 0.12	\$ 5.28
\$ 3.65	to	\$ 3.6999	\$ 0.13	\$ 5.72
\$ 3.70	to	\$ 3.7499	\$ 0.14	\$ 6.16
\$ 3.75	to	\$ 3.7999	\$ 0.15	\$ 6.60
\$ 3.80	to	\$ 3.8499	\$ 0.16	\$ 7.04
\$ 3.85	to	\$ 3.8999	\$ 0.17	\$ 7.48
\$ 3.90	to	\$ 3.9499	\$ 0.18	\$ 7.92
\$ 3.95	to	\$ 3.9999	\$ 0.19	\$ 8.36
\$ 4.00	to	\$ 4.0499	\$ 0.20	\$ 8.80
\$ 4.05	to	\$ 4.0999	\$ 0.21	\$ 9.24
\$ 4.10	to	\$ 4.1499	\$ 0.22	\$ 9.68
\$ 4.15	to	\$ 4.1999	\$ 0.23	\$ 10.12
\$ 4.20	to	\$ 4.2499	\$ 0.24	\$ 10.56
\$ 4.25	to	\$ 4.2999	\$ 0.25	\$ 11.00
\$ 4.30	to	\$ 4.3499	\$ 0.26	\$ 11.44
\$ 4.35	to	\$ 4.3999	\$ 0.27	\$ 11.88
\$ 4.40	to	\$ 4.4499	\$ 0.28	\$ 12.32
\$ 4.45	to	\$ 4.4999	\$ 0.29	\$ 12.76
\$ 4.50	to	\$ 4.5499	\$ 0.30	\$ 13.20
\$ 4.55	to	\$ 4.5999	\$ 0.31	\$ 13.64
\$ 4.60	to	\$ 4.6499	\$ 0.32	\$ 14.08
\$ 4.65	to	\$ 4.6999	\$ 0.33	\$ 14.52
\$ 4.70	to	\$ 4.7499	\$ 0.34	\$ 14.96
\$ 4.75	to	\$ 4.7999	\$ 0.35	\$ 15.40
\$ 4.80	to	\$ 4.8499	\$ 0.36	\$ 15.84
\$ 4.85	to	\$ 4.8999	\$ 0.37	\$ 16.28
\$ 4.90	to	\$ 4.9499	\$ 0.38	\$ 16.72
\$ 4.95	to	\$ 4.9999	\$ 0.39	\$ 17.16
\$ 5.00	to	\$ 5.0499	\$ 0.40	\$ 17.60
\$ 5.05	to	\$ 5.0999	\$ 0.41	\$ 18.04

\$ 5.10	to	\$ 5.1499	\$ 0.42	\$ 18.48
\$ 5.15	to	\$ 5.1999	\$ 0.43	\$ 18.92
\$ 5.20	to	\$ 5.2499	\$ 0.44	\$ 19.36
\$ 5.25	to	\$ 5.2999	\$ 0.45	\$ 19.80
\$ 5.30	to	\$ 5.3499	\$ 0.46	\$ 20.24
\$ 5.35	to	\$ 5.3999	\$ 0.47	\$ 20.68
\$ 5.40	to	\$ 5.4499	\$ 0.48	\$ 21.12
\$ 5.45	to	\$ 5.4999	\$ 0.49	\$ 21.56
\$ 5.50	to	\$ 5.5499	\$ 0.50	\$ 22.00
\$ 5.55	to	\$ 5.5999	\$ 0.51	\$ 22.44
\$ 5.60	to	\$ 5.6499	\$ 0.52	\$ 22.88
\$ 5.65	to	\$ 5.6999	\$ 0.53	\$ 23.32
\$ 5.70	to	\$ 5.7499	\$ 0.54	\$ 23.76
\$ 5.75	to	\$ 5.7999	\$ 0.55	\$ 24.20
\$ 5.80	to	\$ 5.8499	\$ 0.56	\$ 24.64
\$ 5.85	to	\$ 5.8999	\$ 0.57	\$ 25.08
\$ 5.90	to	\$ 5.9499	\$ 0.58	\$ 25.52
\$ 5.95	to	\$ 5.9999	\$ 0.59	\$ 25.96
\$ 6.00	to	\$ 6.0499	\$ 0.60	\$ 26.40
\$ 6.05	to	\$ 6.0999	\$ 0.61	\$ 26.84
\$ 6.10	to	\$ 6.1499	\$ 0.62	\$ 27.28
\$ 6.15	to	\$ 6.1999	\$ 0.63	\$ 27.72
\$ 6.20	to	\$ 6.2499	\$ 0.64	\$ 28.16
\$ 6.25	to	\$ 6.2999	\$ 0.65	\$ 28.60
\$ 6.30	to	\$ 6.3499	\$ 0.66	\$ 29.04
\$ 6.35	to	\$ 6.3999	\$ 0.67	\$ 29.48
\$ 6.40	to	\$ 6.4499	\$ 0.68	\$ 29.92
\$ 6.45	to	\$ 6.4999	\$ 0.69	\$ 30.36
\$ 6.50	to	\$ 6.5499	\$ 0.70	\$ 30.80
\$ 6.55	to	\$ 6.5999	\$ 0.71	\$ 31.24

\$	6.60	to	\$	6.6499	\$	0.72	\$	31.68
Table Continues above and below at same formula								

r. Definitions of terms and other language that accurately reflects the scope of services and the parties agreed upon obligations and rights.

WM's prices and submission in response to this RFP is conditioned upon the parties' entry into a contract that is appropriate for the services being requested and that contains mutually acceptable terms to both parties. Neither WM nor the City has any obligation to sign a final contract without negotiation of the terms and each party's agreement to the final language. WM looks forward to working with City to reach mutually agreeable contract terms.

Permits



**DIVISION OF
ENVIRONMENTAL QUALITY**
5301 NORTHSHORE DRIVE
NORTH LITTLE ROCK, AR 72118-5317

David Conrad
100 Two Pine Drive
North Little Rock, AR 72117

NOTICE OF FINAL PERMITTING DECISION

Date of Decision: July 31, 2023
AFIN: 72-00144; Permit No. 0290-S1-R4
Eco-Vista, LLC
2210 Waste Management Drive
Springdale, AR 72762



The Director has issued a final permitting decision for the above referenced permit. The Director's decision was made upon consideration of the completed application, the public comments on the record, and other materials provided by law or regulation applicable to the application.

The Arkansas Department of Energy and Environment, Division of Environmental Quality (DEQ) has issued a final permitting decision approving the application for a Class 1 Landfill Expansion pursuant to Arkansas Pollution Control and Ecology Commission (APC&EC) Rule 22 for AFIN 72-00144; Permit No. 0290-S1-R4. A Statement of Basis for the decision and DEQ's Response to Comments is available on DEQ's website at www.adeq.state.ar.us/downloads/WebDatabases/SolidWaste/PermittedFacilities/GenDocs/84389.pdf.

The notice of the final permitting decision was mailed to the applicant on July 31, 2023. The certificate of service for this final permitting decision as required by APC&EC Rule 8, is part of the permitting record and available through the hyperlink above.

The applicant and any person who submitted public comments on the record may request an adjudicatory hearing and Commission review of the final permitting decision as provided by APC&EC Rule 8, Chapter 6.

NOTICE OF FINAL PERMITTING DECISION

Class 4 Permit Expansion
Date of Decision: March 17, 2023
AFIN: 72-00144; Permit No. 0290-S4-R2

Eco-Vista, LLC
2210 Waste Management Drive
Springdale, Arkansas 72762

The Director has issued a final permitting decision for the above referenced permit. The Director's decision was made upon consideration of the completed application, the public comments on the record, and other materials provided by law or regulation applicable to the application.

Effective March 17, 2023, the Arkansas Department of Energy and Environment, Division of Environmental Quality (DEQ) has approved the application for a Class 4 Permit Expansion pursuant to Arkansas Pollution Control and Ecology Commission (APC&EC) Rule 22 for Permit No. 0290-S4-R2 and AFIN 72-00144. A Statement of Basis for the decision and DEQ's Response to Comments is available on DEQ's website at www.adeq.state.ar.us/downloads/WebDatabases/SolidWaste/PermittedFacilities/GenDocs/83496.pdf. To request a copy of the documents please call 501-682-0865.

The applicant and any person who submitted public comments on the record may request an adjudicatory hearing and Commission review of the final permitting decision as provided by APC&EC Rule 8, Chapter 6.

I, Karen Blue, hereby certify that this NOTICE OF FINAL PERMITTING DECISION issued on March 17, 2023, has been mailed by first class mail to the addressee of this post card.

Karen Blue



SCAN ME



**DIVISION OF
ENVIRONMENTAL QUALITY**
5301 NORTHSHORE DRIVE
NORTH LITTLE ROCK, AR 72118-5317

Permits

CONTRACT FOR WASTE TRANSFER AND DISPOSAL SERVICES

This Contract for Waste Transfer and Disposal Services (the "Contract"), is made and entered into this _____, by and between the City of Fayetteville, Arkansas, a municipal corporation, ("the City") and Eco-Vista, LLC ("Waste Management" or "Contractor")

IN CONSIDERATION of mutual promises of the parties contained herein and other good and valuable consideration, the parties agree as follows:

1. **DEFINITIONS:** As used herein this Contract, the following terms shall have the following meanings:

a. "Disposal Facility" - means the landfill known as the Eco-Vista Landfill, located at 2210 WM Drive, Springdale, AR 72762, which is which is utilized, owned, and operated by Contractor and permitted to receive Solid Waste, C&D and/or Special Waste by the applicable federal, state, and/or local agency, or another duly permitted landfill operated in compliance with the regulations stipulated by the applicable state agency and/or the U.S. Environmental Protection Agency.

b. "Transfer Station" – means the Fayetteville Solid Waste Transfer Station, located at 1560 S. Happy Hollow Road, Fayetteville, Arkansas 72701, which is utilized, owned and operated by the City and permitted to receive Solid Waste, Yard Waste, C&D and/or Special Waste by the applicable federal, state, and/or local agency.

c. "Solid Waste" – means all non-hazardous Garbage, Rubbish, and/or C&D that can legally be received at the Transfer Station and Disposal Facility. The term "Solid Waste" specifically excludes Unacceptable Waste.

d. "Garbage" – means waste materials consisting of putrescible or animal and vegetable waste materials resulting from the handling, preparation, cooking, and consumption of food, including waste materials from markets, storage facilities, handling and sale of produce and other food products, and all dead animals of less than ten pounds (10 lbs) in weight, except those slaughtered for human consumption.

e. "Rubbish" – means nonputrescible waste materials (excluding ashes), consisting of both combustible and noncombustible waste materials. Combustible rubbish includes paper, rags, cartons, wood, excelsior, furniture, rubber, plastics or similar materials; noncombustible rubbish includes glass, crockery, tin cans, aluminum cans, metal furniture, and similar materials that will not burn at ordinary incinerator temperatures (1,600 degrees Fahrenheit to 1,800 degrees Fahrenheit).

f. "Medical Waste" – means waste materials generated by health care related facilities and associated with health care activities, not including Garbage or Rubbish generated from offices, kitchens, or other non-health-care activities. The term includes Special Waste from health care-related facilities which is comprised of animal waste, bulk blood and blood products, microbiological waste, pathological waste, and sharps as those terms are defined in in Ark. Code Ann. §20-32-101 (relating to Definitions).

g. "Construction and Demolition Debris" or "C&D" – means materials resulting from construction, remodeling, repair, or demolition operations. Such materials include, but are not limited to, dirt, sand, rock, bricks, plaster, gypsum wallboard, aluminum, glass, asphalt material, plastic pipe, roofing material, carpeting, concrete, wood, masonry, trees, remnants of new construction materials, including paper, plastic, carpet scraps, wood scraps, scrap metal, building materials, and packaging. With the exception of soil, concrete and asphalt, Construction and Demolition Debris does not include Unacceptable Waste.

h. "Special Waste" – means waste materials that require special handling and management due to the nature of the waste, including, but not limited to, the following: (i.) containerized waste (e.g. a drum, barrel, portable tank, box, pail, etc.), (ii.) waste transported in bulk tanker, (iii.) liquid waste, (iv.) sludge waste, (v.) waste from an industrial process, (vi.) waste from a pollution control process, (vii.) residue and debris from the cleanup of a spill or release of chemical(s), or (viii.) any other waste defined by applicable law, rule or regulation as "Special Waste."

i. "Unacceptable Waste" - any waste or material that (i) the acceptance and handling of which by Contractor would cause a violation of any permit, condition, legal or regulatory requirement, (ii) can cause substantial damage to Contractor's equipment or facilities, (iii) presents a danger to the health or safety of the public or Contractor's employees, (iv) is or contains Hazardous Waste, industrial waste, liquid waste, Special Waste that has not been profiled and pre-approved by Contractor, untreated Medical Waste, dead animals weighing ten pounds (10 lbs.) or greater, (v) is or contains solid or dissolved material in domestic sewage, or solid or dissolved material in irrigation return flows, or industrial discharges subject to regulation by permit, or (vi) results from activities associated with the exploration, development, or production of oil or gas or geothermal resources, (vii) is or contains fuels, (viii) is or contains motor oil or paint, (ix) is or contains televisions, (x) is or contains batteries, (xi) is or contains florescent light bulbs, (xii) is or contains white goods (household appliances), (xiii) is or contains treated/de-characterized wastes, (xiv) is or contains any waste tires, (xv) is or contains sludge, (xvii) is or contains waste or materials that may adversely affect the operations of the Disposal Facility or Transfer Station regardless if such waste or materials could be legally received, and/or (xviii) is or contains other solid or liquid waste specifically prohibited for disposal at the Disposal Facility or Transfer Station by Arkansas Department of Environmental Quality (ADEQ) or any other regulatory agency having jurisdiction over such landfill, in accordance with applicable law. Title to and liability for Unacceptable Waste shall remain with the generator all times. Contractor has no obligation to accept, transport, process or dispose of any Unacceptable Waste.

j. "Work" – means all labor, services, equipment, and material necessary for Contractor to complete the obligations and all other requirements included in this Contract.

2. TERM OF CONTRACT: The Contract is to take effect and continue and remain in full force and effect for a period of three (3) years, and such period shall commence on the later of

January 1, 2025 or on the date the contract is approved by the Fayetteville City Council (the "Effective Date") and the Contract shall automatically terminate thirty-six (36) months after the Effective Date. The parties shall have the option to renew this Contract for a total of four (4) successive three (3) year terms upon mutual written agreement. The option to renew can be made effective by written notification from either party to the other party no later than ninety (90) days prior to the expiration of the then current contract term. Notwithstanding the foregoing, this Contract will be subject to the annual appropriation of sufficient funds for this Contract in the budget by the Fayetteville City Council.

3. **CONTRACT DOCUMENTS:** The parties agree that the following documents are incorporated into and are made a part of the Contract as if their terms and conditions were set forth herein:

- a. Appendix A: RFP 24-09, Waste Transfer and Disposal Services and its appendices that were issued by the City ("RFP")
- b. Appendix B: Fayetteville Fuel Surcharge Calculator
- c. Appendix C: Contractor's exceptions to certain provisions in response to the RFP

In the event of any inconsistency or contradiction between the terms of this Contract and any of its Appendices or attachments, the order of precedence and controlling provisions shall be as follows: (1) this Contract; (2) Appendix C; (3) Appendix A; and (4) Appendix B.

4. **CITY'S OBLIGATIONS:** Obligations and services to be provided by Contractor under the terms of this Contract shall include the following:

- a. City hereby grants and the Contractor hereby accepts the sole and exclusive contract, license and privilege to dispose of all municipal, residential and commercial Solid Waste which is delivered to the Transfer Station.
- b. City shall own, operate and maintain the Transfer Station in accordance with all applicable laws and regulations.
- c. The Transfer Station shall be open for the performance of this Contract between the hours of 5:30 a.m. and 3:00 p.m., Monday through Friday and 5:30 a.m. and 11:00 a.m. on Saturday.
- d. City shall be responsible for loading the Solid Waste into Contractor's or its subcontractor's trailers. The obligation of City to load all Solid Waste into Contractor's or its subcontractor's trailers is an integral and material part of this Contract. City's obligation to provide loading services shall be a continuing obligation. In the event the City fails to meet the aforementioned loading obligations, which are not cured within thirty (30) days of receipt of a written notice from Contractor specifying the circumstances, then Contractor may terminate this Contract as of any date at least ten (10) days after the last day of the thirty (30) day cure period.

e. City will be responsible for loading transport trailers with Solid Waste at payload weights no greater than that required to reach the gross vehicle weight limitation set by applicable law. However, in the interest of efficiency, the City is responsible for loading Solid Waste in such a way that a standard trailer with a capacity of 115 cubic yards will contain a minimum of 23 tons of Solid Waste. Any loads that do not meet the minimum weight will be subject the City to paying a surcharge as described in Section 6 below.

f. City shall not load, send, or tender for delivery to Contractor any Unacceptable Waste. Contractor shall not accept title or any liability for Unacceptable Waste loaded onto Contractor's trucks at the Transfer Station. Title and responsibility for Unacceptable Waste shall remain with the generator of such material. Contractor and its subcontractor shall be obligated to monitor and observe the loading of Solid Waste at the Transfer Station, at its own cost and expense; however, City retains responsibility for excluding Unacceptable Waste from the material City loads into Contractor's trucks.

g. If the City loads or causes Unacceptable Waste to be delivered to the Disposal Facility, the Contractor may in its sole discretion either remove, manage, handle, store, treat, and/or dispose of that Unacceptable Waste and charge the City for the costs, expenses, damages, fines, and penalties arising out of such activities or require the City to promptly remove, manage, handle, or dispose of the Unacceptable Waste from the Disposal Facility at the City's sole cost. City shall pay or reimburse Contractor for any and all costs, damages and/or fines incurred as a result of or relating to the City's tender or delivery of Unacceptable Waste, including costs of inspection, testing, analysis, legal fees, professional consulting fees, or removal costs.

5. CONTRACTOR'S OBLIGATIONS: The obligations and services to be provided by Contractor under the terms of this Contract shall include the following:

- a. All municipal, residential and commercial Solid Waste received at the Fayetteville Transfer Station shall be transported to a permitted and approved Disposal Site. The parties agree that the Contractor shall primarily transport all Solid Waste from the Transfer Station to the Eco-Vista Landfill; however, Contractor is also permitted to transport the Solid Waste to the Ozark Ridge Landfill, located at 10140 Ozark Ridge Access Lane, Danville, AR 72833, as an alternate facility for disposal.
- b. Contractor shall have full, complete, and sole control and direction over all aspects of its business and operation as contemplated under this Contract. Contractor shall provide all equipment, personnel, vehicles, and management required to fulfill Contractor's obligations under this Contract.
- c. Contractor shall be responsible for securing necessary permits and approvals from relevant Federal, State, and local governmental agencies having jurisdiction over its disposal operations referenced herein; provided, however, City shall retain responsibility for obtaining all permits and approvals related to the operation of the Transfer Station, including without limitation, any activities related to the loading of the Solid Waste into Contractor's or its subcontractor's trucks. During the term hereof,

Contractor shall receive and accept the City's Solid Waste from the Transfer Station and transport and dispose of such Waste at the Disposal Facility, all in compliance with applicable laws and regulations. This Contract excludes and Contractor has no obligations to accept Unacceptable Waste for transport or disposal.

- d. All Solid Waste shall be removed from the Transfer Station by the end of each day (Monday through Saturday), including all holidays except New Year's Day, Thanksgiving Day, and Christmas Day. The first transport truck shall be at the City's Transfer Station by 5:30 AM and the last truck leaves approximately between 2:00 PM – 3:00 PM (M-F) and by 11:00 AM on Saturdays.
- e. Transporting of all Solid Waste shall be contained, tied, or enclosed, so that leaking, spilling, or blowing of waste is prevented.
- f. Contractor shall provide detailed inventory of assets illustrating that there is an adequate number of vehicles, trailers, and backup equipment, maintained in good physical condition. Information on all proposed labor, supervisors, maintenance, fuel, and necessary supplies to ensure the daily systematic and satisfactory performance of all services specified in this scope of work shall also be provided.
- g. Contractor shall prepare any required reports to all government agencies for the Work hereunder this Contract, if applicable, and will provide copies of said reports to City.
- h. Contractor shall provide to the City documented proof of disposal for each load. Such documentation shall be provided to the City with each invoice.

6. **FEES:**

- a. **Base Rate.** The City agrees to pay Contractor the current rate of \$52.22 (\$14.67 for transportation and \$38.55 for disposal) per ton (the "Base Rate") through December 31, 2026, for Contractor's receipt and handling of the City's Solid Waste from the Transfer Station and the transportation and disposal of such Solid Waste at the Disposal Facility. An additional fuel surcharge shall be added to the Base Rates based on the surcharge further defined below during the term of this Contract.
- b. **CPI Increase.** Beginning on January 1, 2027 and on each January 1 thereafter (including in any renewal or extension terms), the Base Rate shall be automatically adjusted by the annual percentage change in the average that the Consumer Price Index, US City Average for All Urban Consumers (current series), Water, Sewer, Trash Collection, Not Seasonally Adjusted, Series ID CUUR0000SEHG ("CPI") (<https://beta.bls.gov/dataViewer/view/timeseries/CUUR0000SEHG>) has increased over the 12 most recently published months compared to the average CPI for the preceding twelve-month period for which the data has been published. If the above CPI ceases to be published, the parties agree to substitute another equally authoritative measure of change in the purchasing power of the U.S. dollar as may be then available so as to carry out the intent of this provision.
 - i. The CPI published on the first Monday prior to the end of the month (or the first business day thereafter if such Monday is a Federal Holiday) shall be used to determine the monthly change. The annual percentage change shall be calculated by subtracting the average CPI value for the

previous 12-months from the average CPI value for the most recent 12-month period, the result of which shall be divided by the prior 12-month period average. An example of the CPI annual increase calculation follows:

Index	2020 12-Month Average	2021 12-Month Average	Change	Applied Percentage Change
CPI – Water, Sewer, Trash	252.46	261.47	9.01	3.6% (9.01/252.46)

- ii. Waste Management shall coordinate with the City in writing prior to any implementation of any CPI price adjustment. Such coordination shall include the amount of the price adjustment, documentation substantiating the CPI published numbers, and the date the adjusted price takes effect. The City and Waste Management shall mutually agree on any increase, including calculation accuracy on CPI or other equally authoritative measure as applicable, prior to any price adjustment.
- c. **Surcharges.** In addition to the Base Rate above, the City shall pay to Contractor the following surcharges if the applicable conditions are met:
 - i. **Quarterly True Up.** The City shall pay a Quarterly True Up payment to Contractor if the City does not achieve a twenty-three (23) tons per load quarterly average. The City shall pay to Contractor the difference for any short falls at a rate of \$14.67 per missed ton, as set forth per the following example below (“Quarterly True Up”).

Quarterly True up	
Example: Fayetteville to ECO at 22 tpi	
Minimum TPL:	23
Rate Per Ton:	\$14.67
Quarterly Total Tons:	1000
Quarterly Total Loads:	48
Quarterly Average TPL (Total Tons/Total Loads):	21.83

Missed Average TPL (Minimum TPL-Quarterly Average TPL):	1.17
Missed Tons (Quarterly Total Loads x Missed Average TPL):	56.16
WM Pays MBI For Minimum Charges (Missed Tons x Rate Per Ton):	\$823.87

- ii. **Fuel Surcharge.** The City shall pay a fuel surcharge in addition to the Base Rates for transportation, disposal and the Quarterly True Up payment as follows ("Fuel Surcharge"): In the event that the price of fuel deviates from the threshold price per gallon, a mileage based fuel surcharge (or discount) shall be applied on a per haul basis. The surcharge will increase or decrease by one cent (\$.01) per mile for every 5-cent increase or decrease in the price of diesel fuel above or below the threshold price of \$3.50 per gallon, as determined by the corresponding per mile surcharge shown in the table attached as Appendix B. Calculations shall be made the first week of each month based upon the United States Energy Information Administration's (EIA) U.S. On-Highway Diesel Fuel Price Index for PADD 2 (Midwest) price as reported on their website at <http://www.eia.gov/petroleum/gasdiesel/> or phone no. (202) 586-6966, will be used as typically announced each Monday, or on Tuesday when Monday is a federal holiday.

7. SECURING FOR PERFORMANCE – BID SECURITY: The Contractor will be required to furnish a corporate surety bond as security for the performance of the Work under this Contract. Said surety bond shall be in the amount of twenty five percent (25%) of the previous year's total value of the Contract. The premium for the bond(s) described above shall be paid by the Contractor. A certificate from the surety showing that the bond premium(s) is/are paid in full shall accompany the bond. The surety on the bond shall be from corporate surety company duly authorized to do business in the State of Arkansas. Bonds must be written by an "A" rated bonding company.

8. QUANTITIES: The City makes no warranties as to the quantities of Solid Waste available for transfer and disposal. During the term of this Contract all of the municipal, residential and commercial waste delivered to the Transfer Station (except recyclable waste recycled as such) shall be transported and disposed according to these Contract terms.

9. DISPOSAL SITES: Contractor shall provide evidence satisfactory to the City that the Contractor shall at all times have a commitment for adequate landfill air space adequate to exceed the projected needs of the Solid Waste to be disposed of hereunder during the term of the Contract, but in any case, not less than 10 years. Disposal Site will be in compliance with the Resource Conservation and Recovery Act, Subtitle "D" and any applicable subtitles or state, and/or local agency regulations required of said site. Prior to any change by the Contractor of the Disposal Site, the Contractor shall provide documentation to the City of Fayetteville that such site meets specifications hereunder.

10. REPRESENTATIONS OF THE CITY OF FAYETTEVILLE: The City represents and warrants that the Transfer Station shall be properly and fully permitted as a Solid Waste transfer station by all applicable federal, state and local governmental authorities.

11. DEFAULT AND TERMINATION: Except as otherwise provided herein, if either party defaults in the performance of any of the covenants or conditions contained herein this Contract, and fails to cure such default within sixty (60) days after the non-defaulting party has given the defaulting party written notice of such default (or if such default is of a nature that it cannot be cured within such sixty (60) day period, the defaulting party fails to commence the curing of such default within such sixty (60) day period, and fails to thereafter diligently pursue the curing thereof) (the "Cure Period"), the non-defaulting party may: (a) terminate this Contract as of any date which the non-defaulting party may select; (b) cure the default at the expense of the defaulting party; and/or (c) have recourse to any other right or remedy to which it may be entitled by law, including, but not limited to, the right to all damages or losses suffered as a result of such termination. In the event either party waives default by the other party, such waiver shall not be construed or determined to be a continuing waiver of the same or any subsequent breach or default.

12. AUDIT; ACCESS TO RECORDS

- a. Contractor shall maintain books, records, documents and other evidence directly pertinent to performance on Work under this Contract in accordance with generally accepted accounting principles and practices. Contractor will provide information within 30 calendar days of the City's request. City of Fayetteville, the State or any of their authorized representatives shall have access to relevant books, records, documents and other evidence for the purpose of inspection, audit and copying during normal business hours and upon prior reasonable notice; provided, however, there shall be no right to audit Contractor's books, records, documents and other evidence to determine profits or general administrative and overhead expenses. Contractor will provide proper facilities for such access and inspection.
- b. Records hereunder shall be maintained and made available for a period of five (5) calendar years or as otherwise required under Ark. Code Ann. § 14-59-114 and Ark. Code Ann. § 14-237-112. In addition, those records which relate to any dispute between the parties hereunder or any other claim or cause of action related to this Contract or performance hereunder, or to costs or items to which an audit exception has been taken, shall be maintained and made available until three years after the date of resolution of such appeal, litigation, claim or exception.
- c. Contractor will submit or assist with submission of any annual or other reports that may be required by any applicable law, rule, regulation, code, or ordinance of the City and any other county, state, or federal agency or entity associated with or otherwise implicated by this Contract. If any litigation, claim, negotiation, audit monitoring, inspection, or other action has been started before the expiration of the foregoing required record retention period, Contractor shall retain the records require hereunder until completion of the action and resolution of all issues which arise from it, or the end of the required period, whichever is later.

13. INDEMNIFICATION. Contractor agrees to defend and indemnify the City against damages, claims, costs, and lawsuits to the extent arising out of Contractor's negligent acts or omissions and willful misconduct, or its violation of any applicable law in providing the Work under this Contract, except that the City shall not be entitled to such indemnification from Contractor to the extent that the City's loss, expense, damage, charge or cost arises from a willful or negligent act or omission of the City, its officers, agents, subcontractors or employees. Upon obtaining knowledge of any matter giving rise to possible indemnification, the City shall notify the Contractor immediately. The Contractor shall have the right to defend or contest any such claim or demand in the name of the City. The City shall cooperate as the Contractor may reasonably request and shall make available to the Contractor or its representatives all records and other materials reasonably required in such defense.

14. ADMINISTRATIVE PROVISIONS:

- a. Non-Public Function. This is an agreement for the performance of specific services described herein. Under no circumstances or conditions shall the operation of the Disposal Facility or disposal of the Solid Waste by Contractor in accordance with this Contract be deemed a public function, nor has City acquired an interest, ownership, or otherwise in the real or personal property or improvements or fixtures used in providing the transportation services and/or the disposal services at the Disposal Facility by virtue of this Contract.
- b. Resolution by Court of Law; Non-binding Mediation. Claims, disputes, or other matters in question between the parties to this Contract arising out of or relating to this Contract or breach thereof shall be subject to and decided by a court of law. The parties can agree to non-binding mediation prior to litigation.
- c. Notices.
 - i. Delivery. Except as otherwise provided herein, any notice or other communication between the parties hereby regarding the matters contemplated by the Contract may be sent by United States mail (first class, airmail, or express mail), commercial courier, or personal delivery, in each case delivered to the address set forth below for the recipient.
 - ii. Receipt. Communications shall be deemed received, if by mail, on the later of receipt or the third calendar day after deposit in the mail with postage prepaid; if by courier, when delivered as evidenced by the courier's records; and if by personal delivery, upon receipt. If received on a day other than a business day, or on a business day but after 4:30 p.m., recipient's local time, the communication will be deemed received at 9:00 a.m. the next business day.
 - iii. Addresses.
 - 1. If to City:

City of Fayetteville
Solid Waste Director
113 West Mountain Street
Fayetteville, AR 72701

2. If to Contractor: Eco-Vista, LLC
Attn: Jamie Vernon, Public Sector Mgr.
88 Joyce Lane
Russellville, AR 72801

With a copy to: Waste Management
Attn: Sr. Legal Counsel for Mid-South
800 Capitol St, Suite 3000
Houston, TX 77002

- d. Assignment. The provisions of this Contract shall inure to the benefit of and be binding upon the respective successors and assignees of the parties hereto. Assignment of this Contract or any of the rights and obligations of Contractor hereunder, in whole or in part, requires the prior written consent of the City. Whenever the consent or approval of a party is required under this Contract, such consent or approval will not be unreasonably withheld, conditioned, or delayed.
- e. Severability. If any term, clause, or provision of this Contract or the application thereof to any person or circumstances shall, to any extent, be illegal, invalid, or unenforceable under present or future laws effective during the term of this Contract then it is the intention of the parties hereto that the remainder of this Contract, or the application of such term, clause, or provision to persons or circumstances other than those to which it is held illegal, invalid, or unenforceable, shall not be affected thereby; and it is also the intention of the parties hereto that, in lieu of each term, clause, or provision that is illegal, invalid, or unenforceable, there be added by a court of competent jurisdiction or otherwise as a part of this Contract a term, clause, or provision as similar in terms to illegal, invalid, or unenforceable term, clause, or provision as may be possible to effect the expressed intent of the parties and be legal, valid, and enforceable.
- f. Entire Agreement. The complete understanding between the parties is set out in this Contract, and this Contract supersedes and voids all prior and contemporaneous understandings, proposals, letters, agreements, or conditions expressed or implied, oral or written, except as herein contained. Any amendment, modification, waiver, or discharge of any requirement of this Contract will not be effective unless in writing signed by the parties hereto or by their authorized representatives.
- g. Relationship between the parties. The relationship of the parties shall be that of an independent contractor. No principal-agent or employer-employee relationship is created by this Contract. The parties hereto shall hold itself out in a manner contrary to the terms of this paragraph. No party shall become liable for any representation, act, or omission of any other party contrary to the terms of this paragraph.
- h. Force Majeure. No party shall have any liability to the other hereunder by reason of any delay or failure to perform any obligation or covenant if the delay or failure to perform is occasioned by a Force Majeure event. For purposes of this Contract, "Force Majeure" shall mean any unforeseeable and unavoidable act of God, storm, fire, pandemic, epidemic, casualty, unforeseeable work stoppage or labor shortage, labor strike, lockout, labor dispute, equipment shortage or injunction, civil disturbance, riot, war, terrorism, national emergency, , act of public enemy, lack of; national defense requirements; imposition of government orders or changes in applicable local, state or

federal laws, rules and regulations if it is not also the result of the willful misconduct or negligent action or inaction of the party relying thereon; or other cause of similar or dissimilar nature beyond its control. In the event Contractor is unable to transport City Solid Waste to the Disposal Facility because of a Force Majeure event, Contractor may, at its sole risk, store up to a maximum of five (5) loaded vehicles and/or trailers at the Transfer Station for a period not to exceed Federal, State, or local regulations. The storage shall remain in effect only until normal operating conditions are restored. Any time that City or Contractor intends to rely upon an event of Force Majeure to suspend obligations as provided in this section, the declaring party shall notify the other party to this Contract as soon as reasonably practicable, describing in reasonable detail the circumstances of the event of Force Majeure. Notice shall again be given when the effect of the event of Force Majeure has ceased.

- i. Headings. The headings in this Contract are for convenience and reference and are not intended to define or limit the scope of any provision of this Contract.
- j. Counterparts. This Contract may be executed in multiple counterpart copies and by facsimile or emailed signatures, each and all of which will be deemed an original.

15. FREEDOM OF INFORMATION ACT: City of Fayetteville contracts and documents prepared while performing City of Fayetteville contractual work are subject to the Arkansas Freedom of Information Act. If a Freedom of Information Act request is presented to the City of Fayetteville, the Contractor will do everything possible to provide the documents in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (A.C.A. § 25-19-101 et. seq.). Only legally authorized photocopying costs pursuant to the FOIA may be assessed for the compliance.

16. JURISDICTION AND VENUE: This Contract shall be interpreted and enforced pursuant to Arkansas law. Jurisdiction and venue shall be in Washington County, Arkansas or the United States District Court for the Western District of Arkansas.

IN CONTRACT with the provision set out above, we sign our names below on this the 4th day of December, 2024.

ECO-VISTA, LLC

By: 

Ed McManus, VP
Printed Name and Title

**CITY OF FAYETTEVILLE,
ARKANSAS**

By: _____
Lioneld Jordan, Mayor

Witness:

Attest:

By: Carrie Wilson
Company Secretary

By: _____
Kara Paxton, City Clerk/Treasurer

Carrie Wilson, Exec. Asst.
Printed Name and Title

My Commission Expires
March 21, 2026





MEETING OF DECEMBER 17, 2024

TO: Mayor Jordan and City Council
THRU: Chris Brown, Public Works Director
FROM: Alan Pugh, Staff Engineer
SUBJECT: **Approval of a contract in the amount of \$169,645.95 with Natural State Streams for the restoration of Niokaska Creek downstream of N Azalea Terrace, approval of a project contingency of \$20,000 (12%) and approval of a budget adjustment.**

RECOMMENDATION:

Staff recommends approval of a contract in the amount of \$169,645.95 with Natural State Streams for the restoration of Niokaska Creek downstream of N Azalea Terrace, pursuant to Bid 24-46, and approval of a project contingency of \$20,000 (12%) and approval of a budget adjustment.

BACKGROUND:

On December 15, 2020, the City council approved resolution number 308-20 authorizing the acceptance of a Wetland Program Development Grant in the amount of \$300,000. The city matched this grant with \$100,000 from the 2019 Bond Program and the Illinois River Watershed Partnership provided \$30,000 for a total project amount of \$430,000. The potential stream restoration projects identified within the grant were as follows:

- Scull Creek just north of Van Asche Drive: includes damage to private property from large cut banks.
- Niokaska Creek downstream of Azalea Terrace: Includes an “s” turn in which a large amount of erosion is taking place and beginning to threaten private structures
- Within existing park land on a tributary to Flynn Creek near N Brookbury Crossing which also includes damage to private property
- Clear Creek directly downstream of Lake Fayetteville: includes damage to both public and private property

DISCUSSION:

As such the City has proceeded with the analysis and design of two of these projects as required by the grant. The first of these projects is located on Niokaska Creek and includes the “s” turn downstream of Azalea Terrace. The City received bids for Bid 24-46 on October 31, 2024 for the proposed project. The bid identified Natural State Streams LLC as the lowest responsive bidder on the project with a total bid of \$169,645.95 and staff is recommending the award of this contract.

BUDGET/STAFF IMPACT:

Funding for this construction project will be taken from 2022 Bond Funds.

ATTACHMENTS: SRF (#3), BA (#4), C-520 Agreement Stipulated Price - Niokaska Final NSS Signature (#5), Bid 24-46, Bid Tab - Signed (#6), Bid 24-46, Submittal - Natural State Streams LLC - E (#7)

Mailing address:

113 W. Mountain Street
Fayetteville, AR 72701

www.fayetteville-ar.gov



City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8323

Legislation Text

File #: 2024-0761

Approval of a contract in the amount of \$169,645.95 with Natural State Streams for the restoration of Niokaska Creek downstream of N Azalea Terrace, approval of a project contingency of \$20,000 (12%) and approval of a budget adjustment.

A RESOLUTION TO APPROVE A CONTRACT WITH NATURAL STATE STREAMS, LLC IN THE AMOUNT OF \$169,645.95 FOR THE RESTORATION OF NIOKASKA CREEK DOWNSTREAM OF NORTH AZALEA TERRACE, TO APPROVE A PROJECT CONTINGENCY IN THE AMOUNT OF \$20,000.00, AND TO APPROVE A BUDGET ADJUSTMENT

WHEREAS, on December 15, 2020, the City Council approved Resolution 308-20 authorizing the acceptance of a Wetland Program Development Grant in the amount of \$300,000.00; and

WHEREAS, the City matched that grant with \$100,000.00 from the 2019 Bond Program and the Illinois River Watershed Partnership provided \$30,000.00 for a total amount of \$430,000.00; and

WHEREAS, the restoration of Niokaska Creek downstream of North Azalea Terrace is the first of two projects required by the grant.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby authorizes Mayor Jordan to sign a contract with Natural State Streams, LLC in the amount of \$169,645.95 for the restoration of Niokaska Creek downstream of North Azalea Terrace, and further approves a project contingency in the amount of \$20,000.00.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment, a copy of which is attached to this Resolution.

City of Fayetteville Staff Review Form

2024-761

Item ID

12/17/2024

City Council Meeting Date - Agenda Item Only
N/A for Non-Agenda Item

Chris Brown

11/13/2024

ENGINEERING (621)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Approval of a contract in the amount of \$169,645.95 with Natural State Streams for the restoration of Niokaska Creek downstream of N Azalea Terrace, approval of a project contingency of \$20,000 (12%) and approval of a budget adjustment.

Budget Impact:

4704.860.7426-5817.00

Drainage Projects 2022 Bonds

Account Number

Fund

46040.7426

Stream Restoration-EPA Grant

Project Number

Project Title

Budgeted Item? Yes

Total Amended Budget

\$ 98,425.00

Expenses (Actual+Encum)

\$ 86,850.00

Available Budget

\$ 11,575.00

Does item have a direct cost? Yes

Item Cost

\$ 169,645.95

Is a Budget Adjustment attached? Yes

Budget Adjustment

\$ 189,646.00

Remaining Budget

\$ 31,575.05

V20221130

Purchase Order Number:

Previous Ordinance or Resolution # 308-20

Change Order Number:

Approval Date:

Original Contract Number:

Comments:

Budget Year	Division	Adjustment Number
2024	ENGINEERING (621)	
	Requestor: Chris Brown	

Approval of a contract in the amount of \$169,645.95 with Natural State Streams for the restoration of Niokaska Creek downstream of N Azalea Terrace, approval of a project contingency of \$20,000 (12%) and approval of a budget adjustment.

TOTAL	-	-	v.20241029
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1 of 1

**AGREEMENT
BETWEEN OWNER AND CONTRACTOR
FOR CONSTRUCTION CONTRACT (STIPULATED PRICE)**

THIS AGREEMENT is by and between City of Fayetteville ("Owner") and
Natural State Streams LLC ("Contractor").

Owner and Contractor hereby agree as follows:

ARTICLE 1 – WORK

1.01 Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

RESTORATION OF APPROXIMATELY 300 FT SECTION OF NIOKASKA CREEK THAT WILL REDUCE STREAMBANK EROSION AND IMPROVE AQUATIC AND TERRESTRIAL HABITAT.

ARTICLE 2 – THE PROJECT

2.01 The Project, of which the Work under the Contract Documents is a part, is generally described as follows: Work includes building stacked rock walls, installing boulder riffle grade control structures, and enhancing the adjacent native riparian area.

ARTICLE 3 – ENGINEER

3.01 The Project has been designed by Watershed Conservation Resource Center.

3.02 The Owner has retained Watershed Conservation Resource Center ("Engineer") to act as Owner's representative, assume all duties and responsibilities, and have the rights and authority assigned to Engineer in the Contract Documents in connection with the completion of the Work in accordance with the Contract Documents.

ARTICLE 4 – CONTRACT TIMES

4.01 *Time of the Essence*

A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

4.02 *Contract Times: Days*

A. The Work will be substantially completed within 60 days after the date when the Contract Times commence to run as provided in Paragraph 4.01 of the General Conditions, and completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions within 90 days after the date when the Contract Times commence to run.

4.03 *Liquidated Damages*

A. Contractor and Owner recognize that time is of the essence as stated in Paragraph 4.01 above and that Owner will suffer financial and other losses if the Work is not completed and Milestones not achieved within the times specified in Paragraph 4.02 above, plus any extensions thereof allowed in accordance with the Contract. The parties also recognize the

delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty):

1. Substantial Completion: Contractor shall pay Owner \$ 250 for each day that expires after the time (as duly adjusted pursuant to the Contract) specified in Paragraph 3.02.A above for Substantial Completion until the Work is substantially complete.

ARTICLE 5 – CONTRACT PRICE

5.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents the amounts that follow, subject to adjustment under the Contract:

- A. For all Unit Price Work, an amount equal to the sum of the extended prices (established for each separately identified item of Unit Price Work by multiplying the unit price times the actual quantity of that item) as shown in the Bid Form, a sum of:

Total of all Extended Prices for Unit Price Work (subject to final adjustment based on actual quantities)	\$169,645.95
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The extended prices for Unit Price Work set forth as of the Effective Date of the Contract are based on estimated quantities. As provided in Paragraph 13.03 of the General Conditions, estimated quantities are not guaranteed, and determinations of actual quantities and classifications are to be made by Engineer.

ARTICLE 6 – PAYMENT PROCEDURES

6.01 *Submittal and Processing of Payments*

- A. Contractor shall submit Applications for Payment in accordance with Article 15 of the General Conditions. Applications for Payment will be processed by Engineer as provided in the General Conditions.

6.02 *Progress Payments; Retainage*

- A. Owner shall make progress payments on account of the Contract Price on the basis of Contractor's Applications for Payment on or about the 15th day of each month during performance of the Work as provided in Paragraph 6.02.A.1 below, provided that such Applications for Payment have been submitted in a timely manner and otherwise meet the requirements of the Contract. All such payments will be measured by the Schedule of Values established as provided in the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no Schedule of Values, as provided elsewhere in the Contract.
 1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as Owner may withhold, including but not limited to liquidated damages, in accordance with the Contract
 - a. 95 percent of Work completed (with the balance being retainage).; and

- b. 100 percent of cost of materials and equipment not incorporated in the Work (with the balance being retainage).
 - c. Retainage shall be 5% of the earned progress payments per Arkansas Code 22-9-604.
- B. Upon Substantial Completion, Owner shall pay an amount sufficient to increase total payments to Contractor to 95 percent of the Work completed, less such amounts set off by Owner pursuant to Paragraph 15.01.E of the General Conditions, and less 100 percent of Engineer's estimate of the value of Work to be completed or corrected as shown on the punch list of items to be completed or corrected prior to final payment.

6.03 *Final Payment*

- A. Upon final completion and acceptance of the Work in accordance with Paragraph 15.06 of the General Conditions, Owner shall pay the remainder of the Contract Price as recommended by Engineer as provided in said Paragraph 15.06.

ARTICLE 7 – INTEREST

7.01 All amounts not paid when due shall bear interest at the rate of 0 percent per annum.

ARTICLE 8 – CONTRACTOR'S REPRESENTATIONS

- 8.01 In order to induce Owner to enter into this Contract, Contractor makes the following representations:
- A. Contractor has examined and carefully studied the Contract Documents, and any data and reference items identified in the Contract Documents.
 - B. Contractor has visited the Site, conducted a thorough, alert visual examination of the Site and adjacent areas, and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
 - C. Contractor is familiar with and is satisfied as to all Laws and Regulations that may affect cost, progress, and performance of the Work.
 - D. Contractor has considered the information known to Contractor itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the Site-related reports and drawings identified in the Contract Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor; and (3) Contractor's safety precautions and programs.
 - E. Based on the information and observations referred to in the preceding paragraph, Contractor agrees that no further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract.
 - F. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.
 - G. Contractor has given the Purchasing Division written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by the Purchasing Division is acceptable to Contractor.

- H. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
- I. Contractor's entry into this Contract constitutes an incontrovertible representation by Contractor that without exception all prices in the Agreement are premised upon performing and furnishing the Work required by the Contract Documents.

ARTICLE 9 – CONTRACT DOCUMENTS

9.01 *Contents*

- A. The Contract Documents consist of the following:
 - 1. This Agreement (Current Section, inclusive).
 - 2. Performance bond (Section: Performance Bond, inclusive).
 - 3. Payment bond (Section: Payment Bond, inclusive).
 - 4. Other bonds.
 - a. Maintenance and Warranty Bond (to be provided following Substantial Completion) (If required).
 - 5. General Conditions (Section: General Conditions, inclusive).
 - 6. Specifications as listed in the table of contents of the Project Manual.
 - 7. Drawings (not attached but incorporated by reference) consisting of 10 sheets with each sheet bearing the following general title: Restoration of Niokaska Creek near Magnolia Drive
 - 8. Addenda (numbers 1 to 1, inclusive).
 - 9. Exhibits to this Agreement (enumerated as follows):
 - a. Contractor's Bid (pages 1 to 25, inclusive).
 - 10. The following which may be delivered or issued on or after the Effective Date of the Contract and are not attached hereto:
 - a. Notice to Proceed.
 - b. Work Change Directives.
 - c. Change Orders.
 - d. Field Orders.
- B. The documents listed in Paragraph 9.01.A are attached to this Agreement (except as expressly noted otherwise above).
- C. There are no Contract Documents other than those listed above in this Article 9.
- D. The Contract Documents may only be amended, modified, or supplemented as provided in the General Conditions.

ARTICLE 10 – MISCELLANEOUS

10.01 *Terms*

- A. Terms used in this Agreement will have the meanings stated in the General Conditions and the Supplementary Conditions.

10.02 *Assignment of Contract*

- A. Unless expressly agreed to elsewhere in the Contract, no assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, money that may become due and money that is due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

10.03 *Successors and Assigns*

- A. Owner and Contractor each binds itself, its successors, assigns, and legal representatives to the other party hereto, its successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

10.04 *Severability*

- A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

10.05 *Contractor's Certifications*

- A. Contractor certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. For the purposes of this Paragraph 10.05:
 - 1. “corrupt practice” means the offering, giving, receiving, or soliciting of any thing of value likely to influence the action of a public official in the bidding process or in the Contract execution;
 - 2. “fraudulent practice” means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to the detriment of Owner, (b) to establish Bid or Contract prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;
 - 3. “collusive practice” means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and
 - 4. “coercive practice” means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

10.06 *Other Provisions*

- A. The contractor shall not discriminate on the basis of race, color, national origin or sex in the performance of this contract. The contractor shall carry out applicable requirements of 40 CFR part 33 in the award and administration of contracts awarded under EPA financial assistance agreements. Failure by the contractor to carry out these requirements is a material breach of this contract which may result in the termination of this contract or other legally available remedies.”
- B. This contract is subject to applicable labor laws, non-discrimination provisions, wage rate laws and other federal laws including the Fair Labor Standards Acts of 1938. The Work Hours Act of 1962, Title VI of the Civil Rights Act of 1964, and The Clean Water Act also apply.
- C. Build America, Buy America provisions apply to this project.
- D. This project is a Federal-Aid contract. This project requires wage rates to be paid according to Davis-Bacon Federal Wage Rates. The percentage goal for Disadvantaged Business Enterprise (DBE) Participation in the project is 11.0%.

IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement.

This Agreement will be effective on December 17, 2024 (which is the Effective Date of the Contract).

OWNER: City of Fayetteville

CONTRACTOR: Natural State Streams LLC

By: Lioneld Jordan

By: Josh Duzan

Title: Mayor

Title: Owner

(If Contractor is a corporation, a partnership, or a joint venture, attach evidence of authority to sign.)

Attest: _____

Attest: Henry Duzan

Title: _____

Title: Henry Duzan, Restoration Technician

Address for giving notices:

City of Fayetteville

113 W Mountain St

Fayetteville, AR 72701

Address for giving notices:

Natural State Streams

613 N Pierce St

Little Rock, AR 72205

License No.: 0242470325

(where applicable)

(If Owner is a corporation, attach evidence of authority to sign. If Owner is a public body, attach evidence of authority to sign and resolution or other documents authorizing execution of this Agreement.)

NOTE TO USER: Use in those states or other jurisdictions where applicable or required.



BID TABULATION
Bid 24-46, Construction - Niokaska Stream Restoration (Magnolia Drive) Rebid
 DEADLINE: Thursday, October 31, 2024 at 2:00 PM
 Certification of Funds: \$250,000.00 (\$312,500.00 total allowed)

				Natural State Streams LLC		Flow State LLC		Building Exteriors	
				Total					
					\$169,645.95	\$205,220.00		\$248,480.00	
Line #	Description	QTY	UOM	Unit	Extended	Unit	Extended	Unit	Extended
Work Items					\$129,140.95		\$153,590.00		\$159,425.00
1.1	Mobilization (Not to Exceed 5% of TOTAL BASE BID, not including bonds and insurance)	1	LS	\$7,600.00		\$9,000.00		\$10,000.00	
1.2	Bonds and Insurance	1	LS	\$7,690.95		\$12,000.00		\$11,500.00	
1.3	Multi-Level Rock Retention	180	LF	\$240.00		\$210.00		\$150.00	
1.4	J-Hook Vane with Step	1	EA	\$11,500.00		\$12,000.00		\$15,000.00	
1.5	Riffle Grade Control Structure	3	EA	\$7,000.00		\$10,000.00		\$9,200.00	
1.6	Channel Excavation	280	CY	\$10.00		\$9.00		\$65.00	
1.7	Floodplain Grading	220	CY	\$10.00		\$9.00		\$55.00	
1.8	Filling and Grading of Bio-D Block Soil Mattresses	180	LF	\$10.00		\$68.00		\$65.00	
1.9	General Excavation: Excavator (16,000 lbs.) - Work outside scope of specific bid items (equipment, fuel, and operator)(based on equipment hours)	40	Hour	\$275.00		\$200.00		\$160.00	
1.10	General Labor	40	Hour	\$65.00		\$45.00		\$45.00	
1.11	Site clean-up including debris removal, grading and mechanical raking of storage areas, loading of excess construction materials on 3rd party trucks	1	LS	\$10,000.00		\$20,000.00		\$12,000.00	
1.12	Removal of Project Spoils	75	CY	\$70.00		\$50.00		\$35.00	
1.13	Deck Removal	1	LS	\$2,500.00		\$2,500.00		\$3,500.00	
Rock and Earthwork Materials					\$40,505.00		\$51,630.00		\$89,055.00
2.1	Top Soil	85	CY	\$25.00		\$30.00		\$33.00	
2.2	Clay	40	CY	\$25.00		\$30.00		\$33.00	
2.3	Structure Boulders	150	Ton	\$115.00		\$150.00		\$181.00	
2.4	Stacked Retention Beam Rock	150	Ton	\$115.00		\$150.00		\$350.00	
2.5	River Cobble	48	Ton	\$60.00		\$60.00		\$110.00	

* NOTICE: Bid award is contingent upon supplier meeting minimum specifications and formal authorization by City Officials.

Amanda R. [Signature] 10/31/24
 Amanda Beilfuss, Sr. Purchasing Agent

L. McGaugh 10/31/2024
 Les McGaugh, Purchasing Director



Bid 24-46 Addendum 1

Natural State Streams LLC

Supplier Response

Event Information

Number: Bid 24-46 Addendum 1
Title: Construction - Niokaska Stream Restoration (Magnolia Drive) Rebid
Type: Invitation to Bid
Issue Date: 10/6/2024
Deadline: 10/31/2024 02:00 PM (CT)
Notes: The City of The City of Fayetteville is accepting sealed bids from properly licensed firms for the restoration of an approximately 300-foot section of Niokaska Creek near Magnolia Drive in Fayetteville, Arkansas, to help reduce streambank erosion and improve aquatic and terrestrial habitat. Questions regarding this bid should be addressed to Amanda Beilfuss, Sr. Purchasing Agent at abeilfuss@fayetteville-ar.gov.

Contact Information

Contact: Amanda Beilfuss - Sr. Purchasing Agent
Address: Purchasing
City Hall
Room 306
113 W. Mountain St.
Fayetteville, AR 72701
Email: abeilfuss@fayetteville-ar.gov

Natural State Streams LLC Information

Contact: ZACHARY HAYS
Address: 613 N Pierce St
Little Rock, AR 72205
Phone: (479) 430-0593
Email: zach@naturalstatestreams.com
Web Address: naturalstatestreams.com

By submitting your response, you certify that you are authorized to represent and bind your company.

Zachary Hays

Signature

zach@naturalstatestreams.com

Email

Submitted at 10/31/2024 12:06:58 PM (CT)

Requested Attachments

Bid 24-46 Signature Forms

Bid Form Bid 24-40, FILE #01 -
PROJECT MANUAL-2.pdf

Please attach your completed forms. These documents can be found in the Project Manual.

Bid 24-46, Qualification Information

Qualifications (Statement and
Resumes).pdf

Please attach the required bidder qualifications information as stated in the Project Manual.

Bid 24-46 Bid Bond

Natural State Streams Bid
Bond.pdf

Please attach a signed and completed copy of your bid bond. Bid bonds in the form of a cashier's check shall be delivered to City Hall, Purchasing Division before bid deadline and have a copy of the cashier's check uploaded with submittal.

Response Attachments

NSS Authority to Sign.pdf

Authority to Sign Letter

NSS Contractors License.pdf

Contractors License

GoodStanding_NSS_2024.pdf

Certificate of Good Standing

Bid Attributes

1

Arkansas Secretary of State Filing Number:

800199084

2

Arkansas Contractor License Number:

0242470325

3

SAM.gov Unique Entity Identifier Number:

HAS5AHW2KQ23

4 Check Yes or No:

Pursuant Arkansas Code Annotated §25-1-503, the Contractor agrees and certifies that they do not currently boycott Israel and will not boycott Israel during any time in which they are entering into, or while in contract, with any public entity as defined in §25-1-503. If at any time during contract the contractor decides to boycott Israel, the contractor must notify the contracted public entity in writing.

☒ Yes, I agree

☐ No, I don't agree

5 Check Yes or No:

Pursuant Arkansas Code Annotated §25-1-1002, the Contractor agrees and certifies that they do not currently boycott Energy, Fossil Fuel, Firearms, and Ammunition Industries during any time in which they are entering into, or while in contract, with any public entity as defined in §25-1-1002. If at any time during the contract the contractor decides to boycott Energy, Fossil Fuel, Firearms, and/or Ammunition Industries, the contractor must notify the contracted public entity in writing.

☒ Yes, I agree

☐ No, I don't agree

6 Addendum Acknowledgement

By selecting "I agree", you acknowledge that you have read and understand any addendums that have been issued for this bid.

☒ I agree

Bid Lines**1 Package Header****Work Items**

Quantity: 1 UOM: EA Total: \$129,140.95

Package Items**1.1 Mobilization (Not to Exceed 5% of TOTAL BASE BID, not including bonds and insurance)**

Quantity: 1 UOM: LS Price: \$7,600.00 Total: \$7,600.00

1.2 Bonds and Insurance

Quantity: 1 UOM: LS Price: \$7,690.95 Total: \$7,690.95

1.3 Multi-Level Rock Revetment

Quantity: 180 UOM: LF Price: \$240.00 Total: \$43,200.00

1.4 J-Hook Vane with Step

Quantity: 1 UOM: EA Price: \$11,500.00 Total: \$11,500.00

1.5 Riffle Grade Control Structure

Quantity: 3 UOM: EA Price: \$7,000.00 Total: \$21,000.00

1.6 Channel Excavation

Quantity: 280 UOM: CY Price: \$10.00 Total: \$2,800.00

1.7 Floodplain Grading

Quantity: 220 UOM: CY Price: \$10.00 Total: \$2,200.00

1.8 Filling and Grading of Bio-D Block Soil MattressesQuantity: 180 UOM: LF Price: \$10.00 Total: \$1,800.00**1.9 General Excavation: Excavator (16,000 lbs.) - Work outside scope of specific bid items (equipment, fuel, and operator)(based on equipment hours)**Quantity: 40 UOM: Hour Price: \$275.00 Total: \$11,000.00**1.10 General Labor**Quantity: 40 UOM: Hour Price: \$65.00 Total: \$2,600.00**1.11 Site clean-up including debris removal, grading and mechanical raking of storage areas, loading of excess construction materials on 3rd party trucks**Quantity: 1 UOM: LS Price: \$10,000.00 Total: \$10,000.00**1.12 Removal of Project Spoils**Quantity: 75 UOM: CY Price: \$70.00 Total: \$5,250.00**1.13 Deck Removal**Quantity: 1 UOM: LS Price: \$2,500.00 Total: \$2,500.00**2 Package Header****Rock and Earthwork Materials**Quantity: 1 UOM: EA Total: \$40,505.00**Package Items****2.1 Top Soil**Quantity: 85 UOM: CY Price: \$25.00 Total: \$2,125.00**2.2 Clay**Quantity: 40 UOM: CY Price: \$25.00 Total: \$1,000.00**2.3 Structure Boulders**Quantity: 150 UOM: Ton Price: \$115.00 Total: \$17,250.00**2.4 Stacked Revetment Beam Rock**Quantity: 150 UOM: Ton Price: \$115.00 Total: \$17,250.00**2.5 River Cobble**Quantity: 48 UOM: Ton Price: \$60.00 Total: \$2,880.00**Response Total: \$169,645.95**

THE CINCINNATI INSURANCE COMPANY

Bid Bond

CONTRACTOR (Name, legal status and address):

Natural State Streams, LLC
613 N PIERCE ST
LITTLE ROCK, AR 72205

SURETY (Name, legal status and principal place of business):

THE CINCINNATI INSURANCE COMPANY
6200 S. GILMORE ROAD
FAIRFIELD, OHIO 45014-5141

OWNER (Name, legal status and address):

CITY OF FAYETTEVILLE
113 W MOUNTAIN ST
FAYETTEVILLE, AR 72701

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

BOND AMOUNT:

5% of bid

PROJECT (Name, location or address, and Project number, if any):

Turnkey Construction of the Niokaska Creek Streambank Stabilization

The Contractor and Surety are bound to the Owner in the amount set forth above, for the payment of which the Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, as provided herein. The conditions of this Bond are such that if the Owner accepts the bid of the Contractor within the time specified in the bid documents, or within such time period as may be agreed to by the Owner and Contractor, and the Contractor either (1) enters into a contract with the Owner in accordance with the terms of such bid, and gives such bond or bonds as may be specified in the bidding or Contract Documents, with a surety admitted in the jurisdiction of the Project and otherwise acceptable to the Owner, for the faithful performance of such Contract and for the prompt payment of labor and material furnished in the prosecution thereof; or (2) pays to the Owner the difference, not to exceed the amount of this Bond, between the amount specified in said bid and such larger amount for which the Owner may in good faith contract with another party to perform the work covered by said bid, then this obligation shall be null and void, otherwise to remain in full force and effect. The Surety hereby waives any notice of an agreement between the Owner and Contractor to extend the time in which the Owner may accept the bid. Waiver of notice by the Surety shall not apply to any extension exceeding sixty (60) days in the aggregate beyond the time for acceptance of bids specified in the bid documents, and the Owner and Contractor shall obtain the Surety's consent for an extension beyond the sixty (60) days.

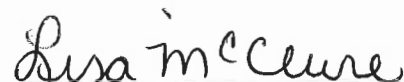
If this Bond is issued in connection with a subcontractor's bid to a Contractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

When this Bond has been furnished to comply with a statutory or other legal requirement in the location of the Project, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirements shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

Signed and sealed this 31st

day of October, 2024


(Witness)


(Witness)

Natural State Streams, LLC

(Principal)

(Title)

THE CINCINNATI INSURANCE COMPANY

(Surety)

(Title)

Mary Ann Justice, Attorney-In-Fact

THE CINCINNATI INSURANCE COMPANY
THE CINCINNATI CASUALTY COMPANY

Fairfield, Ohio

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That THE CINCINNATI INSURANCE COMPANY and THE CINCINNATI CASUALTY COMPANY, corporations organized under the laws of the State of Ohio, and having their principal offices in the City of Fairfield, Ohio (herein collectively called the "Companies"), do hereby constitute and appoint

Paxton Clark, Graves Schmidly, Lisa McClure, Joshua Tritt, Suzanne Elizabeth Niedzwiedz, Mary Ann Justice, Shannon Schmidly, Elizabeth Solomon, Marty Clark, Scott Clark,

of FORT SMITH, AR

their true and legal Attorney(s)-in-Fact, each in their separate capacity if more than one is named above, to sign, execute, seal and deliver on behalf of the Companies as Surety, any and all bonds, policies, undertakings or other like instruments, as follows:

Twenty Million Dollars and 00/100 (\$20,000,000.00)

This appointment is made under and by authority of the following resolutions adopted by the Boards of Directors of The Cincinnati Insurance Company and The Cincinnati Casualty Company, which resolutions are now in full force and effect, reading as follows:

RESOLVED, that the President or any Senior Vice President be hereby authorized, and empowered to appoint Attorneys-in-Fact of the Company to execute any and all bonds, policies, undertakings, or other like instruments on behalf of the Corporation, and may authorize any officer or any such Attorney-in-Fact to affix the corporate seal; and may with or without cause modify or revoke any such appointment or authority. Any such writings so executed by such Attorneys-in-Fact shall be binding upon the Company as if they had been duly executed and acknowledged by the regularly elected officers of the Company.

RESOLVED, that the signature of the President or any Senior Vice President and the seal of the Company may be affixed by facsimile on any power of attorney granted, and the signature of the Secretary or Assistant Vice-President and the Seal of the Company may be affixed by facsimile to any certificate of any such power and any such power of certificate bearing such facsimile signature and seal shall be valid and binding on the Company. Any such power so executed and sealed and certified by certificate so executed and sealed shall, with respect to any bond or undertaking to which it is attached, continue to be valid and binding on the Company.

IN WITNESS WHEREOF, the Companies have caused these presents to be sealed with their corporate seals, duly attested by their President or any Senior Vice President this 16th day of March, 2021.



STATE OF OHIO)SS:
COUNTY OF BUTLER)

THE CINCINNATI INSURANCE COMPANY
THE CINCINNATI CASUALTY COMPANY

Stephen A. Justice

On this 16th day of March, 2021 before me came the above-named President or Senior Vice President of The Cincinnati Insurance Company and The Cincinnati Casualty Company, to me personally known to be the officer described herein, and acknowledged that the seals affixed to the preceding instrument are the corporate seals of said Companies and the corporate seals and the signature of the officer were duly affixed and subscribed to said instrument by the authority and direction of said corporations.



Keith Collett

Keith Collett, Attorney at Law
Notary Public - State of Ohio

My commission has no expiration date.
Section 147.03 O.R.C.

I, the undersigned Secretary or Assistant Vice-President of The Cincinnati Insurance Company and The Cincinnati Casualty Company, hereby certify that the above is the Original Power of Attorney issued by said Companies, and do hereby further certify that the said Power of Attorney is still in full force and effect.

Given under my hand and seal of said Companies at Fairfield, Ohio, this 31st day of October, 2024



Ed H.

BID FORM

Restoration at Niokaska Creek near Magnolia Drive
Fayetteville, Arkansas 2024

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ARTICLE 1 – BID RECIPIENT

1.01 This Bid is submitted to:

***The City of Fayetteville, AR
Purchasing Division – Suite 306
113 W. Mountain St
Fayetteville, AR 72702***

1.02 The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an Agreement with Owner in the form included in the Bidding Documents to perform all Work as specified or indicated in the Bidding Documents for the prices and within the times indicated in this Bid and in accordance with the other terms and conditions of the Bidding Documents.

ARTICLE 2 – BIDDER’S ACKNOWLEDGEMENTS

2.01 Bidder accepts all of the terms and conditions of the Instructions to Bidders, including without limitation those dealing with the disposition of Bid security. This Bid will remain subject to acceptance for 60 days after the Bid opening, or for such longer period of time that Bidder may agree to in writing upon request of Owner.

ARTICLE 3 – BIDDER’S REPRESENTATIONS

3.01 In submitting this Bid, Bidder represents that:

A. Bidder has examined and carefully studied the Bidding Documents, and any data and reference items identified in the Bidding Documents, and hereby acknowledges receipt of the following Addenda:

<u>Addendum No.</u>	<u>Addendum, Date</u>
Bid 24-46, Addendum #1	10/21/2024
_____	_____
_____	_____
_____	_____

B. Bidder has visited the Site, conducted a thorough, alert visual examination of the Site and adjacent areas, and become familiar with and satisfied itself as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.

C. Bidder is familiar with and has satisfied itself as to all Laws and Regulations that may affect cost, progress, and performance of the Work.

D. Bidder has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or adjacent to the Site and all drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings, and (2) reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings.

- E. Bidder has considered the information known to Bidder itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Bidding Documents; and any Site-related reports and drawings identified in the Bidding Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Bidder; and (3) Bidder's safety precautions and programs.
- F. Bidder agrees, based on the information and observations referred to in the preceding paragraph, that no further examinations, investigations, explorations, tests, studies, or data are necessary for the determination of this Bid for performance of the Work at the price bid and within the times required, and in accordance with the other terms and conditions of the Bidding Documents.
- G. Bidder is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Bidding Documents.
- H. Bidder has given the Purchasing Division written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder has discovered in the Bidding Documents, and confirms that the written resolution thereof by the Purchasing Division is acceptable to Bidder.
- I. The Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for the performance and furnishing of the Work.
- J. The submission of this Bid constitutes an incontrovertible representation by Bidder that Bidder has complied with every requirement of this Article, and that without exception the Bid and all prices in the Bid are premised upon performing and furnishing the Work required by the Bidding Documents.

ARTICLE 4 – BIDDER'S CERTIFICATION

4.01 Bidder certifies that:

- A. This Bid is genuine and not made in the interest of or on behalf of any undisclosed individual or entity and is not submitted in conformity with any collusive agreement or rules of any group, association, organization, or corporation;
- B. Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid;
- C. Bidder has not solicited or induced any individual or entity to refrain from bidding; and
- D. Bidder has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for the Contract. For the purposes of this Paragraph 4.01.D:
 - 1. "corrupt practice" means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the bidding process;
 - 2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process to the detriment of Owner, (b) to establish bid prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;
 - 3. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish bid prices at artificial, non-competitive levels; and

4. “coercive practice” means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

ARTICLE 5 – BASIS OF BID

- 5.01 Bidder will complete the Work in accordance with the Contract Documents for the following price(s):

See online Project Manual for most up to date bid form.

- 5.02 Bidder acknowledges that (1) each Bid Unit Price includes an amount considered by Bidder to be adequate to cover Contractor’s overhead and profit for each separately identified item, and (2) estimated quantities are not guaranteed, and are solely for the purpose of comparison of Bids, and final payment for all unit price Bid items will be based on actual quantities, determined as provided in the Contract Documents.

ARTICLE 6 – TIME OF COMPLETION

- 6.01 Bidder agrees that the Work will be substantially complete within 60 calendar days after the date when the Contract Times commence to run as provided in Paragraph 4.01 of the General Conditions, and will be completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions within 90 calendar days after the date when the Contract Times commence to run.
- 6.02 Bidder accepts the provisions of the Agreement as to liquidated damages.

ARTICLE 7 – ATTACHMENTS TO THIS BID

- 7.01 The following documents are submitted with and made a condition of this Bid:
 - A. Required Bid security;
 - B. List of Proposed Subcontractors and qualifications;
 - C. List of Proposed Suppliers (N/A);
 - D. List of Project References;
 - E. Evidence of authority to do business in the state of the Project; or a written covenant to obtain such license within the time for acceptance of Bids;
 - F. Contractor’s License No.: 0242470325
 - G. Required Bidder Qualification Statement with supporting data; and
 - H. *[List other documents and edit above as pertinent]*

ARTICLE 8 – DEFINED TERMS

- 8.01 The terms used in this Bid with initial capital letters have the meanings stated in the Instructions to Bidders, the General Conditions, and the Supplementary Conditions.

ARTICLE 9 – BID SUBMITTAL

BIDDER: *[Indicate legal name of bidding entity]*

Natural State Streams, LLC

By:

[Signature]



[Printed name]

Joshua Duzan

(If Bidder is a corporation, a limited liability company, a partnership, or a joint venture, attach evidence of authority to sign.)

Attest:

[Signature]



[Printed name]

Henry Duzan

Title:

Restoration Technician

Submittal Date:

10/31/2024

Address for giving notices:

100 2nd Ave SE

Gravette, AR 72736

TAX ID / EIN Number: 45-2138255

Telephone Number: 501-804-5004

Fax Number: N/A

Contact Name and e-mail address: Joshua Duzan

josh@naturalstatestreams.com

Bidder's License No.: 0242470325

SAM Unique Entity

Identifier No.: HAS5AHW2KQ23

Summary Of Qualifications

Natural State Streams, LLC (NSS) is a leader in stream and river restoration in Arkansas. We have been trusted by many state agencies, municipalities, and non-profit organizations in and around the state. We specialize in restoring the natural beauty and functionality of freshwater ecosystems and protecting lands and structures using eco-friendly materials and sustainable practices. As a trusted and respected leader in stream restoration in Arkansas, we are committed to preserving and enhancing the state's natural waterways. With our expertise and dedication, we strive to create healthy habitats for aquatic life while mitigating erosion and improving water quality. Our Team at NSS has completed many projects over the last five years, all of which display our talents, expertise, and attention to detail when carrying out each unique project. Per the bid requirements, three projects in particular display our skills in implementing various in-channel structures. These three projects are Osage Creek Natural Area Stream Restoration, Sager's Crossing Stream and Wetland Restoration, and Cloud Creek Stream and Wetland Mitigation. These three projects have demonstrated the ability to utilize cross-vanes, j-hooks, or similar structures to stabilize the channel and prevent further erosion.

Project Name: Osage Creek Natural Area Stream Restoration

Project Description: Working alongside project engineers, NSS completed the construction of stream and riparian Natural Channel Design restoration along approximately $\frac{3}{4}$ of a mile of Ozark stream, building structures in a deep-water environment. Four stone cross vanes, four j-hook structures, step pools, several log features were all built to engineered specifications, withstanding multiple large flood events since project completion.

Client: City of Rogers

Project Lead Engineer & Permitting:

Matt Van Eps, P.E.

Organization: Watershed Conservation Resource Center (WCRC)

Phone: (479)444-1916

Email: vaneps@watershedconservation.org

Project Manager:

Matt Van Eps

Construction Costs: \$175,000

Project Location: Osage Creek Natural Area
Rogers, AR 72758
(36.3111157 N, -94.1980866 W)

Project Photos:



Photo 1. Osage Creek during construction. Overhead view shows multiple stone vanes and wood toe protection shortly after installation.



Photo 2. Osage Creek cross vane during construction.



Photo 4. Osage Creek Cross vane 3 years post construction



Photo 5. Osage Creek Cross vane 3 years post construction

Project Name: Sager's Crossing Stream & Wetland Project (Design & Build)

Project Description: Utilizing Natural Channel Design methodologies, NSS developed the restoration plan, managed permitting, and constructed around ½ mile of stream and riparian restoration along Sager Creek at the City of Siloam Springs' Sager's Crossing public golf course. Various streambank stabilization techniques were utilized, including stabilizing the waterway around cart path bridges using stone, native plantings, and bioengineering techniques. One J-hook structure, one cross-vane structure, and step-pools were constructed along with wood toe and stone toe protection and extensive native plantings.

Client: Illinois River Watershed Partnership

Project Ecologist/ Restoration Planner & Permitting:

Joshua Duzan

Organization: Natural State Streams

Phone: (501)804-5004

Email: josh@naturalstatestreams.com

Project Manager:

Travis Chaney (formerly Illinois River Watershed Partnership)

City of Siloam Springs

Parks & Recreation Manager

Phone: (479)531-7707

Email: tchaney@siloamsprings.com

Construction Costs: \$335,000

Project Location: Siloam Springs Golf Course
801 N Country Club Rd
Siloam Springs, AR 72761

Project Photos:



Photo 3. Sager Creek stone toe protection during construction. NSS employed a pump-around technique during construction to preserve water quality and manage water onsite.



Photo 4. Sager Creek stone toe protection and j-hook structure with step-pools 1 year post construction.

Project Name: Cloud Creek Stream & Wetland Mitigation (Design & Build)

Project Description: NSS completed this expansive design-build floodplain and stream restoration project on Cloud Creek near Eufaula, OK. Extensive bank stabilization efforts were implemented including longitudinal peak stone protection, stone cross vane riffles, step pools, and wood toe with vegetated bank-full bench establishment. Inter-connected wooded floodplain wetlands were established along with stabilization and boulder grade control constructed upstream of and protecting a county road bridge.

Client: Terra Foundation

Project Ecologist/ Restoration Planner & Permitting:

Craig Gump

Organization: Terra Foundation, Inc.

Phone: (913)217-5808

Email: cgump@theterrafoundation.com

Project Manager: Joshua Duzan

Construction Costs: \$550,000

Project Location: EO940 Rd.

Muskogee, OK 74401

(35.6532246 N, -95.6356193 W)

Project Photos:



Photo 5. Cloud Creek stone toe protection after first major flood, several months post-construction.



Photo 6. Above view of Cloud Creek stone toe protection after first major flood, several months post-construction.

References

Jake Owens

Illinois River Watershed Partnership

Phone: (501)-206-7365

Email: jake@irwp.org

Craig Gump

Organization: Terra Foundation, Inc.

Phone: (913)217-5808

Email: cgump@theterrafoundation.com

Sean Saunders

Organization: Arkansas Game and Fish Commission

Phone: (501)-765-9208

Email: sean.saunders@agfc.ar.gov

Team Lead; Assessment & Design Support; Construction Cost Estimating Support; Construction Support; Monitoring and Maintenance Plan Support

As the owner and founder of Natural State Streams, LLC, Josh has constructed more than 30 natural channel design stream restoration projects. He is a skilled heavy equipment operator and project manager, but also brings a unique perspective to the build, having personally designed more than half of the projects he has built. Josh started his career in river restoration while working for The Nature Conservancy-Arkansas Chapter as the Cache River Project Manager and then statewide Biohydrologist. Josh, who designed and built his first stream restoration project in Cotton Plant, Arkansas in 2006, has since developed extensive experience in the implementation of stream restoration projects across the state of Arkansas and beyond. He is Level IV Rosgen-certified in Natural Channel Design and specializes in restoration planning, design, surveying, and construction as well as GIS modeling, mitigation, and geomorphic monitoring.

Relevant Experience

TNC-Missouri Elk River Stream Bank Stabilization, McDonald County, MO

Restored approximately 1,500 linear feet of cut bank along the Elk River. Moved approximately 40,000 cubic yards of gravel to temporarily divert and reshape the river channel. Built out the bank approximately 120 feet back into the channel to improve the river planform and reduce shear stress. Installed boulder and toe-wood bench utilizing 6,000 tons of boulders and hundreds of root wad/trees in deep water environment. Constructed approximately 8,000 feet of soil lifts interspersed with 50,000 live brush layer cuttings. Graded and replanted floodplain with 1,300 seedlings and native seed. Over three years post construction, and through multiple overbank flood events, the project is still meeting its design objectives and serves as a model for other projects in the Ozarks.

IRWP-The Course at Sager's Crossing Stream and Wetland Restoration, Benton County, AR

Restored approximately 2,500 linear feet of Sager Creek and constructed off-channel wetlands in the floodplain. Utilized stacked limestone boulders, wood-toe, soil lifts with live branch layering, in-stream rock structures, in-stream habitat enhancement, and riparian plantings. Construction was just completed on this project in April 2021, and within a week of completion there was a major over-bank flood on Sager Creek which inundated the golf course where the project is located. Despite the vegetation not yet being established, all seven banks targeted for restoration activities held and performed as designed. This project is ongoing with plantings anticipated to be completed in May 2021.

Avon-White Lick Creek Streambank Restoration, Hendricks County, IN

Restored approximately 340 feet linear feet of cut bank along White Lick Creek to enhance stream and riparian habitat and protect an eroding municipal pedestrian and biking trail. Built out bank approximately 30 feet back into the channel. Installed boulder toe utilizing 750 tons of limestone. Built approximately 2,600 linear feet of soil lifts interspersed with black willow live stakes and planted with native seed.

Years of Experience

16

Education

BA, Biology, Hendrix College, Conway, Arkansas

Certifications & Training

River Assessment and Monitoring, Wildland Hydrology, Lubrecht Forest, Montana, 2007

River Restoration and Natural Channel Design, Wildland Hydrology, Gunnison, Colorado, 2007

Applied Fluvial Geomorphology, Wildland Hydrology, Asheville, North Carolina, 2006

River Morphology and Applications, Wildland Hydrology, Asheville, North Carolina, 2006



Ben Reynolds – Restoration Ecologist, Natural State Streams, LLC

Construction Lead; Surveying; Construction Cost Estimating Support; Monitoring and Invasives Management

As a restoration ecologist for Natural State Streams, LLC, Ben has worked on more than 10 stream and wetland restoration projects. He is a skilled heavy equipment operator and project manager, but also brings a unique perspective to the build. Ben started his career as a private bat biologist conducting Section 7 ESA surveys for Indiana Myotis throughout Arkansas and West Virginia. After seven years in the wildlife ecology field, Ben went on to work for the Arkansas Natural Resources Commission as a Program Manager. Ben specialized in non-riparian permitting and stream restoration tax credits. At this time, Ben found his love for water resource management and ecological restoration. Ben began working for NSS in 2021 as a restoration technician where he has assisted in the construction of wetland and stream restoration projects in Oklahoma and Oklahoma. In his three years at NSS, Ben has since developed extensive experience in the implementation of restoration and mitigation projects and specializes in restoration implementation, surveying, native planting, invasive species management and construction.

Relevant Experience

Cane Creek Mitigation Site, Terra Foundation, Boynton, OK

This project was the largest restoration project to date for NSS. The project consisted of over 2,000 linear feet of stream restoration and the creation of over 22 acres of emergent wetlands within the floodplain. This project reconnected the floodplain to Cane Creek after many years of agricultural use. NSS installed 4 large grade control structures within Cane Creek and planted over 15,000 bare root seedlings along the restored riparian corridor. Ben's primary role was as a wetland construction operator and led the team in invasive management and native seed establishment. This project was completed in 2022.

Illinois River Watershed Partnership-Simmons Foods-Sager Creek Stream Restoration and Wetland Project, Siloam Springs, AR

This project along Sager creek restored approximately 100 linear feet of Sager Creek and constructed an off-channel retention wetland within the floodplain. Utilized stacked limestone boulders, soil lifts with native riparian plantings. The one-acre retention wetland was constructed to help filter storm water before entering Sager Creek and was planted with over 4,000 native plugs. Construction was completed on this project in 2023

Years of Experience

15

Education

MS, Wildlife Ecology,
Arkansas Tech University,
Russellville, Arkansas, 2008

Certifications & Training

Hydric Soils Identification,
2016, ANRC.

Watershed Management
Best Management Practices,
ANRC, 2017.

Herbicide Application for
Non-Agriculture, Arkansas
Plant Board, 2023

Bat Conservation
Management, Bat
Conservation International,
2007

Zachary Hays – Restoration Program Manager, Natural State Streams, LLC



Project Manager; Surveying; Construction Cost Estimating; Quality Assurance

As a restoration ecologist for Natural State Streams, LLC, Zachary has worked on over 10 stream and wetland restoration projects. He is a skilled heavy equipment operator and project manager, but also brings a unique perspective to the build. Zachary started his career as a Soil Fertility Research Technician. After two years in the agriculture field, Zachary began working for NSS in 2021 as a restoration technician, where he assisted in constructing wetland and stream restoration projects in Oklahoma and Arkansas. In his three years at NSS, Zachary has since developed extensive experience in the implementation of restoration and mitigation projects and specializes in restoration implementation, surveying, and project management.

Years of Experience

5

Education

BS, Wildlife Ecology and Management, Arkansas State University, Jonesboro, Arkansas, 2017

Relevant Experience

Cane Creek Mitigation Site, Terra Foundation, Boynton, OK

This project was the largest restoration project to date for NSS. The project consisted of over 2,000 linear feet of stream restoration and creation of over 22 acres of emergent wetlands within the floodplain. After many years of agricultural use, this project reconnected the floodplain to Cane Creek. NSS installed 4 large grade control structures within Cane Creek and planted over 15,000 bare root seedlings along the restored riparian corridor. Zachary's primary role was as a streambank restoration operator, and they led the team in the construction of bank stabilization structures, as well as install of erosion control measures.

Illinois River Watershed Partnership-Simmons Foods-Sager Creek Stream Restoration and Wetland Project, Siloam Springs, AR

This project along Sager Creek restored approximately 100 linear feet of Sager Creek and constructed an off-channel retention wetland within the floodplain. Utilized stacked limestone boulders and soil lifts with native riparian plantings. The one-acre retention wetland was constructed to help filter stormwater before entering Sager Creek and was planted with over 4,000 native plugs. Construction was completed on this project in 2023. Zachary acted as project manager and team lead for the entire project, while also being lead operator for the streambank stabilization.



Arkansas Secretary of State John Thurston

State Capitol Building ♦ Little Rock, Arkansas 72201-1094 ♦ 501-682-3409

Certificate of Good Standing

I, John Thurston, Secretary of State of the State of Arkansas, and as such, keeper of the records of domestic and foreign corporations, do hereby certify that the records of this office show

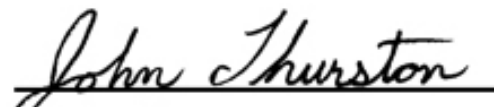
NATURAL STATE STREAMS, LLC

authorized to transact business in the State of Arkansas as a Limited Liability Company, filed Articles of Organization in this office May 5, 2011.

Our records reflect that said entity, having complied with all statutory requirements in the State of Arkansas, is qualified to transact business in this State.



In Testimony Whereof, I have hereunto set my hand and affixed my official Seal. Done at my office in the City of Little Rock, this 30th day of July 2024.


John Thurston
Secretary of State

Online Certificate Authorization Code: 1452645d6f188fc

To verify the Authorization Code, visit sos.arkansas.gov



Joshua Duzan

Natural State Streams, LLC
100 2nd Ave SE
Gravette, AR 72736
Phone: 501-804-5004

► **City of Fayetteville Arkansas
Purchasing Division**

113 W. Mountain
Fayetteville, AR 72701
Phone: 479-575-8258

AFFADAVIT VERIFYING CORPORATE SIGNING AUTHOTITY

I Joshua Duzan. MAKE OATH AND SAY

1. That I am an officer and owner of Natural State Streams, LLC, named in the Operating Agreement of the company.
2. I am Authorized by the Corporation to sign bids and legal documents without affixing a corporate seal.
3. Natural State Streams, LLC is incorporated in the state of Arkansas. The state of formation is Arkansas. The official address is listed above.

Thank you,

A handwritten signature in black ink, appearing to be 'JD' or 'Joshua Duzan', written over a horizontal line.

Joshua Duzan
Owner & Manager
Natural State Streams, LLC
10/29/2024

State of Arkansas
Commercial Contractors Licensing Board

NATURAL STATE STREAMS, LLC
613 N PIERCE ST
LITTLE ROCK, AR 72205

NATURAL STATE STREAMS, LLC

This is to Certify That _____

is duly licensed under the provisions of Ark. Code Ann. § 17-25-101 et. seq. as amended and is entitled to practice Contracting in the State of Arkansas within the following classifications/specialties:

SPECIALTY

Grading & Drainage, Excavation

This contractor has an unlimited suggested bid limit.

from April 12, 2024 **until** March 31, 2025 **when this Certificate expires.**

Witness our hands of the Board, dated at North Little Rock, Arkansas:



[Handwritten Signature]

CHAIRMAN

[Handwritten Signature]

SECRETARY

April 12, 2024 - dsa



MEETING OF DECEMBER 17, 2024

TO: Mayor Jordan and City Council

THRU: Chris Brown, Public Works Director
Susan Norton, Chief of Staff

FROM: Matt Casey, Engineering Design Manager

SUBJECT: **Approval of a contract in the amount of \$8,693,634.49 with Benchmark Construction Company of NWA, Inc. for the construction of the College Ave. Improvements Project (North to Sycamore), and approval of a project contingency of \$870,000.00 (10%).**

RECOMMENDATION:

Staff recommends approval of a contract in the amount of \$8,693,634.49 with Benchmark Construction Company of NWA, Inc. for the construction of the College Ave. Improvements Project (North to Sycamore), approval of a project contingency of \$870,000.00 (10%) and approval of a budget adjustment.

BACKGROUND:

The School Avenue and College Avenue Corridors serve as the major north-south route through the central part of the City and are major commercial and retail destination. Maintaining and improving the corridors will allow them to continue to serve mobility needs, and to continue to develop/redevelop as commercial corridors.

Improvements to these corridors will include striping, widening and/or narrowing of the roadway, utility relocation, sidewalk/trail installation, accommodations for transit systems, elimination or reconfiguration of driveways, modification to traffic signals, medians, and other corridor improvements identified in the design process.

The starting point for corridor designs was the 71B Corridor Plan completed by RDG Planning. Goals and aspirations of the Plan will be implemented to the greatest extent possible through the limits of the project segments selected for design and construction, which include College Ave. between North Street and Township Street, and School Ave. between Martin Luther King Jr. Blvd. and Cato Springs Road.

In December of 2021, the City Council approved a design contract with Garver, LLC for the detailed design of this project from North Street to Sycamore Street.

In addition to the Transportation Improvements, a new water main along this corridor is included in this construction contract. Plans were prepared by McClelland Consulting Engineers for the water main.

On August 25, 2021, the Northwest Arkansas Regional Planning Commission (NWARPC) awarded this project \$1,500,000.00 from the FFY 2022 STBGP-A (Surface Transportation Block Grant Program-Attributable. This Federal-aid program is administered through the NWARPC.

In November of 2021, The City of Fayetteville and ARDOT signed a supplemental agreement of understanding

Mailing address:

113 W. Mountain Street
Fayetteville, AR 72701

www.fayetteville-ar.gov

combining the \$1,500,000.00 in STBGP-A funds with the funds from the 2019 agreement of understanding for Job 040746 Truckers Dr. – Howard Nickell Rd. and Highway 71B Improvements which allocated \$1,500,000.00 for improvements to Highway 71B.

On August 24, 2022, the NWARPC awarded this project and additional \$1,800,000.00 from the FFY 2022 STBGP-A (Surface Transportation Block Grant Program-Attributable). This brings the total Federal Aid to \$4,800,000.00.

At the August 6, 2024 City Council meeting, the Council approved a contract with Benchmark Construction for this same project. Unfortunately, we were not able to receive concurrence of award from ARDOT for the contract. The previous bid did not meet the Disadvantaged Business Enterprise (DBE) goal for the project. ARDOT has since reevaluated the goal and has reduced the goal from 11% to 6% for this re-bid.

DISCUSSION:

On November 19, 2024, the City received three (3) construction bids for this project. Benchmark Construction Company of NWA, Inc. submitted a complete bid of \$8,693,634.49. Engineering staff recommends awarding this contract to Benchmark Construction Company of NWA, Inc. The contract time is 300 days (10 months) for substantial completion.

Please note that as part of the Federal-aid process, the Mayor will be submitting the required Certification Letter to the Arkansas Department of Transportation (ARDOT) requesting their review of the bid tabulations and concurrence in award of the contract to Benchmark Construction Company of NWA, Inc. The actual execution of the construction agreement will occur after receipt of ARDOT concurrence.

BUDGET/STAFF IMPACT:

This project is based on an Agreement of Understanding with ARDOT in which Federal-aid money will pay 80% of the contract amount and the City will pay a 20% match. The City will have to make payments to the Contractor and the Consultant, and then submit the required paperwork to ARDOT requesting 80% reimbursement. The City matching funds for the roadway improvements will be paid from the Streets Project 2022 Bond Funds.

The total Federal-aid amount of \$4,800,000 was recognized in the previous Budget Adjustment brought to council on August 6, 2024. The budget adjustment attached to this council item is an update of the previous BA to modify the contract amount.

Water and Sewer Line Improvement Funds will be used for the new water main portion of this contract.

ACCOUNT	PROJECT	AMOUNT
4702.860.7221-5809.0046020.7221.1020		\$2,046,271.59
4601.860.7221-5809.0046010.7221.1020		\$4,800,000.00
5400.860.5600-5808.0011011.2019.7221		\$1,847,362.90

ATTACHMENTS: SRF (#3), BA (#4), Contract (#5), Bid 24-48, Submittal - Benchmark Construction Company - E (#6), Bid 24-48, Bid Tab (#7), 2024-11-22 College Avenue (North Street to Sycamore Street) - Recommendation to Award-Signed (#8), Letter from Mayor to ARDOT (#9)

Mailing address:

113 W. Mountain Street
Fayetteville, AR 72701

www.fayetteville-ar.gov



City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8323

Legislation Text

File #: 2024-0904

Approval of a contract in the amount of \$8,693,634.49 with Benchmark Construction Company of NWA, Inc. for the construction of the College Ave. Improvements Project (North to Sycamore), and approval of a project contingency of \$870,000.00 (10%).

A RESOLUTION TO APPROVE A CONTRACT WITH BENCHMARK CONSTRUCTION COMPANY OF NWA, INC. IN THE AMOUNT OF \$8,693,634.49 FOR THE COLLEGE AVENUE IMPROVEMENTS PROJECT, TO APPROVE A PROJECT CONTINGENCY IN THE AMOUNT OF \$870,000.00, AND TO APPROVE A BUDGET ADJUSTMENT – 2022 STREET IMPROVEMENT BOND PROJECT

WHEREAS, on August 25, 2021, the Northwest Arkansas Regional Planning Commission (NWARPC) awarded \$1,500,000.00 from the Surface Transportation Block Grant Program-Attributable for the College Avenue Improvements Project; and

WHEREAS, in November 2021, the City of Fayetteville and ARDOT signed a supplemental agreement of understanding combining the \$1,500,000.00 in STBGP-A funds with the funds from the 2019 agreement of understanding for Job 040746 Truckers Dr. – Howard Nickell Rd. and Highway 71B Improvements which allocated \$1,500,000.00 for improvements to Highway 71B; and

WHEREAS, in December 2021, the City Council approved a design contract with Garver, LLC for the detailed design of this project from North Street to Sycamore Street; and

WHEREAS, on August 24, 2022, the NWARPC awarded this project an additional \$1,800,000.00 from the FFY 2022 STBGP-A (Surface Transportation Block Grant Program-Attributable) which brings the total amount of Federal Aid to \$4,800,000.00.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby authorizes Mayor Jordan to sign a contract with Benchmark Construction Company of NWA, Inc. in the amount of \$8,693,634.49 for the College Avenue Improvements Project, and further approves a project contingency in the amount of \$870,000.00.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment, a copy of which is attached to this Resolution.

City of Fayetteville Staff Review Form

2024-904

Item ID

12/17/2024

City Council Meeting Date - Agenda Item Only
N/A for Non-Agenda Item

Matt Casey

11/25/2024

ENGINEERING (621)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Approval of a contract in the amount of \$8,693,634.49 with Benchmark Construction Company of NWA, Inc. for the construction of the College Ave. Improvements Project (North to Sycamore), approval of a project contingency of \$870,000.00 (10%), and approval of a budget adjustment.

Budget Impact:

4702.860.7221-5809.00

Street Projects 2022 Bonds

5400.860.5600-5808.00

Water and Sewer

Account Number

Fund

46020.7221.1020

Hwy 71B Corridor - North to Township

11011.2019.7221

Water & Sewer Relocations - Bond Projects

Project Number

Project Title

Budgeted Item? Yes

Total Amended Budget

\$ 10,451,901.00

Expenses (Actual+Encum)

\$ 271,337.58

Available Budget

\$ 10,180,563.42

Does item have a direct cost? Yes

Item Cost

\$ 9,563,634.49

Is a Budget Adjustment attached? Yes

Budget Adjustment

\$ (572,502.00)

Remaining Budget

\$ 44,426.93

V20221130

Purchase Order Number:

Previous Ordinance or Resolution #

Change Order Number:

Approval Date:

Original Contract Number:

Comments: Item cost includes construction contract plus project contingency.

City of Fayetteville, Arkansas - Budget Adjustment (Agenda)

Budget Year	Division	Adjustment Number
2024	ENGINEERING (621)	
	Requestor: Matt Casey	

BUDGET ADJUSTMENT DESCRIPTION / JUSTIFICATION:

Approval of a contract in the amount of \$8,693,634.49 with Benchmark Construction Company of NWA, Inc. for the construction of the College Ave. Improvements Project (North to Sycamore), and approval of a project contingency of \$870,000.00 (10%).

	COUNCIL DATE:	12/17/2024
	ITEM ID#:	2024-904
		Holly Black
		11/25/2024 8:09 AM
	Budget Division	Date
	TYPE:	D - (City Council)
	JOURNAL #:	
	GLDATE:	
RESOLUTION/ORDINANCE	CHKD/POSTED:	/

TOTAL	-	-					v.20241029
	Increase / (Decrease)		Project.Sub#				
Account Number	Expense	Revenue	Project	Sub.Detl	AT	Account Name	
4702.860.7221-5809.00	215,014	-	46020	7221.1020	EX	Improvements - Street	
4702.860.7221-5911.99	(36,725)	-	46020	7221.1020	EX	Contingency - Capital Project	
4702.860.7999-5899.00	(178,289)	-	46020	7999	EX	Unallocated - Budget	
	-	-					
5400.860.5600-5808.00	(736,049)	-	11011	2019.7221	EX	Improvements - Water Line	
5400.860.5600-5911.99	(14,742)	-	11011	2019.7221	EX	Contingency - Capital Project	
5400.720.5600-5808.00	750,791	-	10007	1	EX	Improvements - Water Line	
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DOCUMENT 00500 – AGREEMENT

BETWEEN OWNER AND CONTRACTOR

Contract Name/Title: North St. – Sycamore St. (College Ave.) (Fayetteville) (S)

Contract No.: 24-48, Construction

THIS AGREEMENT is dated as of the _____ day of _____ in the year 2024 by and between The City of Fayetteville, Arkansas and _____ (hereinafter called Contractor).

ARTICLE 1 - WORK

1.01 Contractor shall complete all Work as specified or indicated in the Contract Documents. The work under this Contract includes, but is not limited to:

The construction of the North St. – Sycamore St. (College Ave.) (Fayetteville) (S) project. Improvements consist of, but are not limited to, roadway signing and striping, curb and gutter, driveway, sidewalk, and curb ramp reconstruction, parking lot reconstruction, intersection improvements, retaining walls, enhancements to pedestrian and bicycle infrastructure, landscaping, signalization, and drainage improvements.

Any use of a third-party dumpster or roll off container shall be procured from the City of Fayetteville Recycling and Trash Collection Division. Use of a Non-City dumpster or roll off container is not allowed.

Open burning or blasting is not allowed on City projects.

Contractor is responsible for obtaining all applicable permits; however, fees for the City issued permits shall be waived.

The Contract includes work in City of Fayetteville Right-of-way and in General Utility Easements.

Refer to online bidding portal for quantities.

DOCUMENT 00500 – AGREEMENT (continued)

ARTICLE 2 - ENGINEER

- 2.01 The Contract Documents have been prepared by Garver, LLC, who is hereinafter called Engineer. The Engineer assumes all duties and responsibilities, and has the rights and authority assigned to Engineer in the Contract Documents in connection with completion of the Work in accordance with the Contract Documents.

ARTICLE 3 - CONTRACT TIME

3.01 TIME OF THE ESSENCE:

- A. All time limits for milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

3.02 DATES FOR SUBSTANTIAL COMPLETION AND FINAL PAYMENT:

- A. The Work shall be Substantially Completed within **300** calendar days after the date when the Contract Times commence to run as provided in the GENERAL CONDITIONS, and final completion and ready for final payment in accordance with the GENERAL CONDITIONS within **330** calendar days after the date when the Contract Times commence to run.

3.03 LIQUIDATED DAMAGES:

- A. Owner and Contractor recognize that time is of the essence of this Agreement and that The City of Fayetteville will suffer financial loss if the Work is not completed within the time specified above, plus any extensions thereof allowed in accordance with the GENERAL CONDITIONS. The parties also recognize the delays, expense, and difficulties involved in proving the actual loss suffered by The City of Fayetteville if the Work is not Substantially Completed on time. Accordingly, instead of requiring any such proof, The City of Fayetteville and Contractor agree that as liquidated damages for delay (but not as a penalty) Contractor shall pay The City of Fayetteville Five Hundred Dollars (\$500.00) for each calendar day that expires after the time specified above in Paragraph 3.02 for Substantial

DOCUMENT 00500 – AGREEMENT (continued)

Completion until the Work is Substantially Complete. After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the time specified in Paragraph 3.02 for completion and readiness for final payment or any proper extension thereof granted by The City of Fayetteville, Contractor shall pay The City of Fayetteville Five Hundred Dollars (\$500.00) for each calendar day that expires after the time specified for completion and readiness for final payment.

ARTICLE 4 - CONTRACT PRICE

- 4.01 The CITY OF FAYETTEVILLE agrees to pay, and the CONTRACTOR agrees to accept, as full and final compensation for all work done under this agreement, the amount based on the unit prices bid in the Proposal (BID FORM) which is hereto attached, for the actual amount accomplished under each pay item, said payments to be made in lawful money of the United States at the time and in the manner set forth in the Specifications.
- 4.02 As provided in the General Conditions, estimated quantities are not guaranteed, and determinations of actual quantities and classifications are to be made by ENGINEER as provided in the General Conditions. Unit prices have been computed as provided in the General Conditions.
- 4.03 Changes, modifications, or amendments in scope, price or fees to this contract shall not be allowed without a prior formal contract amendment approved by the Mayor and the City Council in advance of the change in scope, cost or fees.
- I. There shall be no changes without prior written approval of the Engineer of Record and/or the City's designated Professional Engineer.

DOCUMENT 00500 – AGREEMENT (continued)

ARTICLE 5 - PAYMENT PROCEDURES

5.01 SUBMITTAL AND PROCESSING OF PAYMENTS:

- A. Contractor shall submit Applications for Payment in accordance with the GENERAL CONDITIONS. Applications for Payment will be processed by Engineer as provided in the GENERAL CONDITIONS.

5.02 PROGRESS PAYMENTS, RETAINAGE:

- A. The City of Fayetteville shall make progress payments on account of the Contract Price on the basis of Contractor's Applications for Payment as recommended by Engineer, on or about the 15th day of each month during construction. All such payments will be measured by the schedule of values established in the GENERAL CONDITIONS (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no schedule of values, as provided in the General Requirements.
 - 1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below, but, in each case, less the aggregate of payments previously made and less such amounts as Engineer shall determine, or The City of Fayetteville may withhold, in accordance with the GENERAL CONDITIONS.
 - a. 95% of Work Completed (with the balance being retainage). If Work has been 50% completed as determined by Engineer, and if the character and progress of the Work have been satisfactory to The City of Fayetteville and Engineer, The City of Fayetteville on recommendation of Engineer, may determine that as long as the character and progress of the Work subsequently remain satisfactory to them, there will be no additional retainage on account of Work subsequently completed, in which case the remaining progress payments prior to Substantial Completion will be an amount equal to 100% of the Work Completed less the aggregate of payments previously made; and

DOCUMENT 00500 – AGREEMENT (continued)

- b. 100% of Equipment and Materials not incorporated in the Work but delivered, suitably stored, and accompanied by documentation satisfactory to The City of Fayetteville as provided in the GENERAL CONDITIONS.

5.03 **FINAL PAYMENT:**

- A. Upon final completion and acceptance of the Work in accordance with the GENERAL CONDITIONS, The City of Fayetteville shall pay the remainder of the Contract Price as recommended by Engineer and as provided in the GENERAL CONDITIONS.

ARTICLE 6 - CONTRACTOR'S REPRESENTATIONS

6.01 In order to induce The City of Fayetteville to enter into this Agreement, Contractor makes the following representations:

- A. Contractor has examined and carefully studied the Contract Documents including the Addenda and other related data identified in the Bid Documents.
- B. Contractor has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, performance, and furnishing of the Work.
- C. Contractor is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, performance, and furnishing of the Work.
- D. Contractor has carefully studied all:
 - (1) Reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site; and

DOCUMENT 00500 – AGREEMENT (continued)

- (2) Reports and drawings of a Hazardous Environmental Condition, if any, at the Site. Contractor acknowledges that The City of Fayetteville and Engineer do not assume responsibility for the accuracy or completeness of information and data shown or indicated in the Contract Documents with respect to Underground Facilities at or contiguous to the Site.
- E. Contractor has obtained and carefully studied (or assumes responsibility of having done so) all such additional supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the Site or otherwise which may affect cost, progress, performance, and furnishing of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor and safety precautions and programs incident thereto.
- F. Contractor does not consider that any additional examinations, investigations, explorations, tests, studies, or data are necessary for the performing and furnishing of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.
- G. Contractor is aware of the general nature of work to be performed by The City of Fayetteville and others at the Site that relates to the Work as indicated in the Contract Documents.
- H. Contractor has correlated the information known to Contractor, information and observations obtained from visits to the Site, reports and drawings identified in the Contract Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Contract Documents.
- I. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract

DOCUMENT 00500 – AGREEMENT (continued)

Documents and the written resolution thereof by Engineer is acceptable to Contractor.

- J. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

ARTICLE 7 - CONTRACT DOCUMENTS

7.01 CONTENTS:

- A. The Contract Documents which comprise the entire Agreement between The City of Fayetteville and Contractor concerning the Work consist of the following and may only be amended, modified, or supplemented as provided in the GENERAL CONDITIONS:

1. This Agreement.
2. Exhibits to this Agreement (enumerated as follows):
 - a. Notice to Proceed.
 - b. Contractor's Bid.
 - c. Documentation submitted by Contractor prior to Notice of Award.
3. Performance, Payment, and other Bonds.
4. General Conditions.
5. Supplementary Conditions.
6. Specifications consisting of divisions and sections as listed in table of contents of Project Manual.
7. Drawings consisting of a cover sheet and sheets as listed in the table of contents thereof, with each sheet bearing the following general

DOCUMENT 00500 – AGREEMENT (continued)

title: NORTH ST. – SYCAMORE ST. (COLLEGE AVE.)
(FAYETTEVILLE) (S)

8. Addenda numbers ____ inclusive.
9. The following which may be delivered or issued after the Effective Date of the Agreement and are not attached hereto: All Written Amendments and other documents amending, modifying, or supplementing the Contract Documents pursuant to the GENERAL CONDITIONS.

ARTICLE 8 - MISCELLANEOUS

8.01 TERMS:

- A. Terms used in this Agreement which are defined in the GENERAL CONDITIONS shall have the meanings stated in the GENERAL CONDITIONS.

8.02 ASSIGNMENT OF CONTRACT:

- A. No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by Law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

8.03 SUCCESSORS AND ASSIGNS:

- A. The City of Fayetteville and Contractor each binds himself, his partners, successors, assigns, and legal representatives to the other party hereto, its

DOCUMENT 00500 – AGREEMENT (continued)

partners, successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

8.04 **SEVERABILITY:**

- A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon The City of Fayetteville and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

8.05 **FREEDOM OF INFORMATION ACT:**

- A. City contracts and documents prepared while performing city contractual work are subject to the Arkansas Freedom of Information Act. If a Freedom of Information Act request is presented to the City of Fayetteville, the contractor will do everything possible to provide the documents in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (A.C.A. §25-19-101 et. seq.). Only legally authorized photocopying costs pursuant to the FOIA may be assessed for this compliance.

8.06 **LIENS:**

- A. **No liens against this construction project are allowed.** Arkansas law (A.C.A. §§18-44-501 through 508) prohibits the filing of any mechanics' of materialmen's liens in relation to this public construction project. Arkansas law requires and the contractor promises to provide and file with the Circuit Clerk of Washington County a bond in a sum equal to the amount of this contract. Any subcontractor or materials supplier may bring an action for non-payment or labor or material on the bond. The contractor promises to notify every subcontractor and materials supplier for this project of this paragraph and obtain their written acknowledgement of such notice prior to commencement of the work of the subcontractor or materials supplier.

DOCUMENT 00500 – AGREEMENT (continued)

IN WITNESS WHEREOF, The City of Fayetteville and Contractor have signed this Agreement in quadruplicate. One counterpart each has been delivered to Contractor. Three counterparts each has been retained by The City of Fayetteville. All portions of the Contract Documents have been signed, initialed, or identified by The City of Fayetteville and Contractor.

This Agreement will be effective on _____, 20__, which is the Effective Date of the Agreement.

CONTRACTOR:

CITY OF FAYETTEVILLE

By: STEPHEN SMITH

By: Lioneld Jordan

(Type or legibly print)



(Signature)

(Signature)

Title: CEO

Title: Mayor

Contractor shall attach evidence of authority to sign.

If Contractor is a corporation, corporate entity or LLC, Contractor shall attach Corporate Resolution authorizing Contractor's signature and execution of Agreement.

Further if Contractor is a corporation, corporate entity or LLC, Contractor shall also attach a copy of the Contractor's Articles of Incorporation and a copy from the Arkansas State Secretary of

DOCUMENT 00500 – AGREEMENT (continued)

State to document that the corporation, corporate entity or LLC is in current “Good Standing” with the State of Arkansas and such entity is permitted to perform work in the State of Arkansas.

(SEAL)

(SEAL)

Attest _____

Attest _____

DOCUMENT 00500 – AGREEMENT (continued)

Address for giving notices

Address for giving notices

113 W. Mountain St.
Fayetteville, AR 72701

License No. _____

Agent for Service of process

(Type or legibly print)

Contractor shall attach evidence of authority of Agent for Service process to sign. If Contractor is a corporation, corporate entity or LLC, Contractor shall attach Corporate Resolution authorizing Agent for Service process authority to sign.

(If Contractor is a corporation, corporate entity or LLC, attach evidence of authority to sign.)

END OF DOCUMENT 00500



CITY OF
FAYETTEVILLE
ARKANSAS

Bid 24-48 Addendum 4

Benchmark Construction Company

Benchmark Construction Company of NWA,

Inc.

Supplier Response

Event Information

Number: Bid 24-48 Addendum 4

Title: Construction - College Ave. Improvements (North to Sycamore) Rebid #2

Type: Invitation to Bid

Issue Date: 10/13/2024

Deadline: 11/19/2024 02:00 PM (CT)

Notes: The City of The City of Fayetteville is accepting sealed bids from properly licensed firms for the construction of the College Ave (North St. to Sycamore St.) project. Improvements consist of, but are not limited to, roadway signing and striping, curb and gutter, driveway, sidewalk, and curb ramp reconstruction, parking lot reconstruction, intersection improvements, retaining walls, enhancements to pedestrian and bicycle infrastructure, landscaping, signalization, and drainage improvements. Questions regarding this bid should be addressed to Amanda Beilfuss, Sr. Purchasing Agent at abeilfuss@fayetteville-ar.gov.

Contact Information

Contact: Amanda Beilfuss - Sr. Purchasing Agent

Address: Purchasing
City Hall
Room 306
113 W. Mountain St.
Fayetteville, AR 72701

Email: abeilfuss@fayetteville-ar.gov

Benchmark Construction Company Information

Contact: Steve Smith
Address: 333 W. POPLAR ST., STE A
Fayetteville, AR 72703
Phone: (479) 251-1316
Email: benchmarkconst@att.net
Web Address: None

By submitting your response, you certify that you are authorized to represent and bind your company.

Stephen Smith
Signature

benchmarkconst@att.net
Email

Submitted at 11/19/2024 01:53:20 PM (CT)

Requested Attachments

Bid 24-48, Required Signature Forms

Required Signature Pages.pdf

Please attach ALL required, completed bid forms and federal forms. These documents can be found in the Project Manual.

Bid 24-48, Bid Bond

Bid Bond.pdf

Please attach a signed and completed copy of your bid bond. Bid bonds in the form of a cashier's check shall be delivered to City Hall, Purchasing Division before bid deadline and have a copy of the cashier's check uploaded with submittal.

Bid Attributes

1 Arkansas Secretary of State Filing Number:

5381670002

2 Arkansas Contractor License Number:

0033500525

3 SAM.gov Unique Entity Identifier Number:

900R2

4 Check Yes or No:

Pursuant Arkansas Code Annotated §25-1-503, the Contractor agrees and certifies that they do not currently boycott Israel and will not boycott Israel during any time in which they are entering into, or while in contract, with any public entity as defined in §25-1-503. If at any time during contract the contractor decides to boycott Israel, the contractor must notify the contracted public entity in writing.

☒ Yes, I agree

☐ No, I don't agree

5 Check Yes or No:

Pursuant Arkansas Code Annotated §25-1-1002, the Contractor agrees and certifies that they do not currently boycott Energy, Fossil Fuel, Firearms, and Ammunition Industries during any time in which they are entering into, or while in contract, with any public entity as defined in §25-1-1002. If at any time during the contract the contractor decides to boycott Energy, Fossil Fuel, Firearms, and/or Ammunition Industries, the contractor must notify the contracted public entity in writing.

☒ Yes, I agree

☐ No, I don't agree

6 Addendum Acknowledgement

By selecting "I agree", you acknowledge that you have read and understand any addendums that have been issued for this bid.

☒ I agree

Bid Lines**1 Package Header****PACKAGE A - STREET SCOPE**

The City intends to award whole Bid to single Contractor. Bidders shall submit a bid for ALL line items.

Quantity: 1

Total: \$6,846,271.59

Package Items

1.1 Mobilization (Not to Exceed 5% of TOTAL BASE BID, not including Trench and Excavation Safety or Bonds and Insurance)

Quantity: 1 UOM: LS Price: \$417,758.00 Total: \$417,758.00

1.2 Insurance and Bonding

Quantity: 1 UOM: LS Price: \$231,838.00 Total: \$231,838.00

1.3 Roadway Construction Control

Quantity: 1 UOM: LS Price: \$197,390.00 Total: \$197,390.00

1.4 Trench and Excavation Safety Systems

Quantity: 1 UOM: LS Price: \$1,700.00 Total: \$1,700.00

1.5 Clearing, Grubbing, and Demolition

Quantity: 1 UOM: LS Price: \$861,791.00 Total: \$861,791.00

1.6 Unclassified Excavation (Plan Quantity)

Quantity: 2100 UOM: CY Price: \$34.37 Total: \$72,177.00

1.7 Embankment (Plan Quantity)

Quantity: 1300 UOM: CY Price: \$42.98 Total: \$55,874.00

1.8 Undercut and Backfill

Quantity: 250 UOM: CY Price: \$68.60 Total: \$17,150.00

1.9 Rock Excavation

Quantity: 10 UOM: CY Price: \$400.00 Total: \$4,000.00

1.10 Subgrade Preparation (Plan Quantity)Quantity: 2109 UOM: SYPrice: \$4.96Total: \$10,460.64**1.11 4" Topsoil Placement (Yard Areas)**Quantity: 5175 UOM: SYPrice: \$27.00Total: \$139,725.00**1.12 12" Class III R.C. Pipe**Quantity: 7 UOM: LFPrice: \$57.14Total: \$399.98**1.13 18" Class III R.C. Pipe**Quantity: 22 UOM: LFPrice: \$99.55Total: \$2,190.10**1.14 24" Class III R.C. Pipe**Quantity: 21 UOM: LFPrice: \$150.95Total: \$3,169.95**1.15 18" Class III R.C. Flared End Section**Quantity: 1 UOM: EAPrice: \$1,500.00Total: \$1,500.00**1.16 24" Class III R.C. Flared End Section**Quantity: 1 UOM: EAPrice: \$2,080.00Total: \$2,080.00**1.17 Pipe Collar**Quantity: 5 UOM: EAPrice: \$864.00Total: \$4,320.00**1.18 Sidewalk Underdrain**Quantity: 1 UOM: EAPrice: \$2,020.00Total: \$2,020.00**1.19 4' Curb Inlet (Circular)**Quantity: 3 UOM: EAPrice: \$6,856.00Total: \$20,568.00**1.20 5' Curb Inlet (Circular)**Quantity: 2 UOM: EAPrice: \$8,315.00Total: \$16,630.00**1.21 4'x6' Curb Inlet (Rectangular)**Quantity: 2 UOM: EAPrice: \$12,087.00Total: \$24,174.00**1.22 4'x7' Curb Inlet (Rectangular)**Quantity: 2 UOM: EAPrice: \$12,220.00Total: \$24,440.00**1.23 Reconstruct Inlet Top with Extended Throat**Quantity: 4 UOM: EAPrice: \$4,961.00Total: \$19,844.00**1.24 4' Junction Box (Circular)**Quantity: 1 UOM: EAPrice: \$9,448.00Total: \$9,448.00**1.25 4'x6' Junction Box**Quantity: 1 UOM: EAPrice: \$15,238.00Total: \$15,238.00**1.26 4' Drop Inlet Extension**Quantity: 6 UOM: EAPrice: \$1,878.00Total: \$11,268.00**1.27 8' Drop Inlet Extension**Quantity: 6 UOM: EAPrice: \$3,757.00Total: \$22,542.00**1.28 Concrete Channel Paving**Quantity: 6 UOM: SYPrice: \$207.00Total: \$1,242.00

1.29 Erosion Control Fabric (Scourstop)

Quantity: 25 UOM: SY Price: \$98.00 Total: \$2,450.00

1.30 6" Aggregate Base Course

Quantity: 2109 UOM: SY Price: \$29.78 Total: \$62,806.02

1.31 Asphalt Concrete Hot Mix Surface Course (ACHMSC)

Quantity: 2300 UOM: Ton Price: \$186.86 Total: \$429,778.00

1.32 Concrete Curb and Gutter (Type D) (1'-6")

Quantity: 7444 UOM: LF Price: \$36.63 Total: \$272,673.72

1.33 4" Thick Concrete Sidewalk

Quantity: 1559 UOM: SY Price: \$106.47 Total: \$165,986.73

1.34 4" Thick Concrete Sidewalk with Thickened Edge

Quantity: 444 UOM: SY Price: \$138.11 Total: \$61,320.84

1.35 6" Thick Concrete Sidewalk

Quantity: 390 UOM: SY Price: \$138.24 Total: \$53,913.60

1.36 Concrete Driveway Aprons

Quantity: 858 UOM: SY Price: \$120.60 Total: \$103,474.80

1.37 Asphalt Parking Lot

Quantity: 1452 UOM: SY Price: \$75.88 Total: \$110,177.76

1.38 Concrete Parking Lot

Quantity: 454 UOM: SY Price: \$114.99 Total: \$52,205.46

1.39 Concrete Retaining Wall

Quantity: 42 UOM: LF Price: \$504.73 Total: \$21,198.66

1.40 Modular Block Retaining Wall

Quantity: 304 UOM: SF Price: \$123.76 Total: \$37,623.04

1.41 Solid Sod

Quantity: 4915 UOM: SY Price: \$4.70 Total: \$23,100.50

1.42 Solid Sod (Zoysia)

Quantity: 260 UOM: SY Price: \$14.33 Total: \$3,725.80

1.43 Additional Watering

Quantity: 52 UOM: MG Price: \$157.17 Total: \$8,172.84

1.44 Remove and Replace Mailboxes

Quantity: 2 UOM: EA Price: \$453.00 Total: \$906.00

1.45 4" Pavement Marking (Paint)

Quantity: 705 UOM: LF Price: \$3.40 Total: \$2,397.00

1.46 6" Pavement Marking (Thermoplastic)

Quantity: 8324 UOM: LF Price: \$1.64 Total: \$13,651.36

1.47 12" Pavement Marking (Thermoplastic)

Quantity: 274 UOM: LF Price: \$7.93 Total: \$2,172.82

1.48 24" Pavement Marking (Thermoplastic)Quantity: 1120 UOM: LFPrice: \$16.99Total: \$19,028.80**1.49 Yield Lines (Thermoplastic)**Quantity: 9 UOM: LFPrice: \$28.31Total: \$254.79**1.50 Pavement Symbols (Arrows - Thermoplastic)**Quantity: 17 UOM: EAPrice: \$424.69Total: \$7,219.73**1.51 Pavement Symbols (ONLY - Thermoplastic)**Quantity: 6 UOM: EAPrice: \$509.63Total: \$3,057.78**1.52 Pavement Symbols (Handicap Symbol - Thermoplastic)**Quantity: 1 UOM: EAPrice: \$453.00Total: \$453.00**1.53 Pavement Symbols (Helmeted Bicyclist - Thermoplastic)**Quantity: 1 UOM: EAPrice: \$368.00Total: \$368.00**1.54 Preformed Brick Pattern (Thermoplastic)**Quantity: 2880 UOM: SFPrice: \$22.65Total: \$65,232.00**1.55 Standard Street Sign Installation**Quantity: 9 UOM: EAPrice: \$424.69Total: \$3,822.21**1.56 Erosion Control**Quantity: 1 UOM: LSPrice: \$29,126.00Total: \$29,126.00**1.57 Traffic Control and Maintenance (Phase 1)**Quantity: 1 UOM: LSPrice: \$208,823.00Total: \$208,823.00**1.58 Traffic Control and Maintenance (Phase 2)**Quantity: 1 UOM: LSPrice: \$10,758.00Total: \$10,758.00**1.59 Traffic Control and Maintenance (Phase 3)**Quantity: 1 UOM: LSPrice: \$5,662.00Total: \$5,662.00**1.60 Traffic Control and Maintenance (Phase 4)**Quantity: 1 UOM: LSPrice: \$10,758.00Total: \$10,758.00**1.61 Portable Changeable Message Sign**Quantity: 412 UOM: DayPrice: \$136.72Total: \$56,328.64**1.62 Aggregate Base for Roadway Maintenance**Quantity: 100 UOM: TonPrice: \$86.73Total: \$8,673.00**1.63 Handicap Ramp Concrete**Quantity: 148 UOM: SYPrice: \$130.85Total: \$19,365.80**1.64 Project Signs**Quantity: 2 UOM: EAPrice: \$1,104.00Total: \$2,208.00**1.65 Cold Milling Asphalt Pavement**Quantity: 17254 UOM: SYPrice: \$6.51Total: \$112,323.54**1.66 Tree Protection Fencing**Quantity: 1200 UOM: LFPrice: \$4.35Total: \$5,220.00

1.67 Portland Cement Concrete Base (6" U.T.)

Quantity: 51 UOM: SY Price: \$137.84 Total: \$7,029.84

1.68 8" Thick Colored Concrete Crosswalk (Apple Red)

Quantity: 320 UOM: SY Price: \$223.14 Total: \$71,404.80

1.69 6" Thick Stamped (Cobblestone) & Colored Concrete (Dark Granite)

Quantity: 145 UOM: SY Price: \$415.82 Total: \$60,293.90

1.70 8" Thick Portland Cement Concrete Pavement

Quantity: 4 UOM: SY Price: \$193.09 Total: \$772.36

1.71 4" Thick Colored Concrete (Dark Granite)

Quantity: 72 UOM: SY Price: \$402.00 Total: \$28,944.00

1.72 Decorative Fence

Quantity: 795 UOM: LF Price: \$147.23 Total: \$117,047.85

1.73 Decorative Fence (Custom)

Quantity: 460 UOM: LF Price: \$226.50 Total: \$104,190.00

1.74 Drop Inlet Adjusted to Grade

Quantity: 5 UOM: EA Price: \$2,418.00 Total: \$12,090.00

1.75 Junction Box Adjusted to Grade

Quantity: 1 UOM: EA Price: \$3,670.00 Total: \$3,670.00

1.76 Gravity Block Retaining Wall

Quantity: 1837 UOM: SF Price: \$92.32 Total: \$169,591.84

1.77 Concrete Wheel Stop

Quantity: 5 UOM: EA Price: \$248.00 Total: \$1,240.00

1.78 Detectable Warning Brick Paver

Quantity: 788 UOM: SF Price: \$48.64 Total: \$38,328.32

1.79 Seal Coat

Quantity: 452 UOM: SY Price: \$10.19 Total: \$4,605.88

1.80 System Local Controller TS2-Type 2, E-Net (8 Phases)

Quantity: 1 UOM: EA Price: \$46,998.00 Total: \$46,998.00

1.81 Traffic Signal Controller (Modification)

Quantity: 14 UOM: EA Price: \$1,075.88 Total: \$15,062.32

1.82 Ethernet Switch, T100 Hardened (8-Port)

Quantity: 1 UOM: EA Price: \$2,378.00 Total: \$2,378.00

1.83 E-Net Cable (Exterior Cat 5E)

Quantity: 62 UOM: LF Price: \$3.40 Total: \$210.80

1.84 Local Radio (E-Net 5.8) With Antenna

Quantity: 1 UOM: EA Price: \$1,359.00 Total: \$1,359.00

1.85 Battery Backup System

Quantity: 2 UOM: EA Price: \$22,366.00 Total: \$44,732.00

1.86 Traffic Signal Head, LED, (3 Section, 1 Way)Quantity: 8 UOM: EA Price: \$1,642.00 Total: \$13,136.00**1.87** Traffic Signal Head, LED, (4 Section, 1 Way)Quantity: 5 UOM: EA Price: \$1,936.00 Total: \$9,680.00**1.88** Central Control UnitQuantity: 2 UOM: EA Price: \$7,021.00 Total: \$14,042.00**1.89** Pole Mounted AssemblyQuantity: 16 UOM: EA Price: \$1,868.00 Total: \$29,888.00**1.90** Countdown Pedestrian Signal Head, LEDQuantity: 16 UOM: EA Price: \$1,257.00 Total: \$20,112.00**1.91** Traffic Signal Cable (5C/12 A.W.G.)Quantity: 2033 UOM: LF Price: \$4.53 Total: \$9,209.49**1.92** Traffic Signal Cable (5C/14 A.W.G.)Quantity: 1651 UOM: LF Price: \$5.10 Total: \$8,420.10**1.93** Traffic Signal Cable (7C/14 A.W.G.)Quantity: 252 UOM: LF Price: \$7.93 Total: \$1,998.36**1.94** Traffic Signal Cable (20C/14 A.W.G.)Quantity: 776 UOM: LF Price: \$12.46 Total: \$9,668.96**1.95** Electrical Conductors-In-Conduit (1C/8 A.W.G., E.G.C.)Quantity: 1336 UOM: LF Price: \$2.27 Total: \$3,032.72**1.96** Electrical Conductors-In-Conduit (2C/6 A.W.G.)Quantity: 87 UOM: LF Price: \$6.00 Total: \$522.00**1.97** Galvanized Steel Conduit (2")Quantity: 14 UOM: LF Price: \$62.14 Total: \$869.96**1.98** Non-Metallic Conduit (2")Quantity: 71 UOM: LF Price: \$31.13 Total: \$2,210.23**1.99** Non-Metallic Conduit (3")Quantity: 1069 UOM: LF Price: \$47.57 Total: \$50,852.33**1.100** Concrete Pull Box (Type 2)Quantity: 7 UOM: EA Price: \$1,981.00 Total: \$13,867.00**1.101** Concrete Pull Box (Type 1 HD)Quantity: 1 UOM: EA Price: \$1,810.00 Total: \$1,810.00**1.102** Concrete Pull Box (Type 2 HD)Quantity: 4 UOM: EA Price: \$2,070.00 Total: \$8,280.00**1.103** Traffic Signal Mast Arm And Pole With Foundation (50')Quantity: 1 UOM: EA Price: \$46,998.00 Total: \$46,998.00**1.104** Traffic Signal Pedestal Pole With FoundationQuantity: 14 UOM: EA Price: \$5,060.00 Total: \$70,840.00

1.105 Service Point Assembly (2 Circuits)Quantity: 1 UOM: EAPrice: \$6,850.00Total: \$6,850.00**1.106 Removal Of Traffic Signal Equipment**Quantity: 1 UOM: LSPrice: \$8,490.00Total: \$8,490.00**1.107 18" Street Name Sign (Install Only)**Quantity: 1 UOM: EAPrice: \$700.00Total: \$700.00**1.108 Video Cable**Quantity: 424 UOM: LFPrice: \$2.88Total: \$1,221.12**1.109 Video Detector (IP)**Quantity: 4 UOM: LFPrice: \$5,520.00Total: \$22,080.00**1.110 Video Cable (Exterior CAT 5E)**Quantity: 686 UOM: EAPrice: \$3.45Total: \$2,366.70**1.111 Video Monitor (CLR)**Quantity: 1 UOM: EAPrice: \$290.00Total: \$290.00**1.112 Central Control Unit (8 Channel)**Quantity: 1 UOM: EAPrice: \$63,250.00Total: \$63,250.00**1.113 Adjust Water Valve to Grade**Quantity: 1 UOM: EAPrice: \$860.00Total: \$860.00**1.114 Adjust Sanitary Sewer Manhole to Grade**Quantity: 8 UOM: EAPrice: \$1,747.00Total: \$13,976.00**1.115 Remove, Salvage, and Reinstall Monument Sign**Quantity: 1 UOM: EAPrice: \$10,833.00Total: \$10,833.00**1.116 Reinforced Concrete Wall System with Native Stone Veneer**Quantity: 460 UOM: LFPrice: \$436.78Total: \$200,918.80**1.117 Benches, Installed**Quantity: 3 UOM: EAPrice: \$3,183.00Total: \$9,549.00**1.118 Trash Receptacles, Installed**Quantity: 3 UOM: EAPrice: \$3,577.00Total: \$10,731.00**1.119 Bus Shelters, Installed**Quantity: 1 UOM: EAPrice: \$87,285.00Total: \$87,285.00**1.120 Placemaking Elements**Quantity: 2 UOM: EAPrice: \$25,126.00Total: \$50,252.00**1.121 Precast Monument Base**Quantity: 6 UOM: EAPrice: \$5,700.00Total: \$34,200.00**1.122 Trees**Quantity: 24 UOM: EAPrice: \$497.00Total: \$11,928.00**1.123 Plantings**Quantity: 360 UOM: SFPrice: \$20.10Total: \$7,236.00

1.124 Irrigation

Quantity: 1 UOM: LS Price: Total:

1.125 Street Lighting Assembly & Associated Hardware (Standard Foundation), Installed

Quantity: 8 UOM: EA Price: Total:

1.126 Street Lighting Assembly & Associated Hardware (Shallow Foundation), Installed

Quantity: 3 UOM: EA Price: Total:

1.127 Pedestrian Lighting Assembly & Associated Hardware (Standard Foundation), Installed

Quantity: 29 UOM: EA Price: Total:

1.128 Pedestrian Lighting Assembly & Associated Hardware (Shallow Foundation), Installed

Quantity: 9 UOM: EA Price: Total:

1.129 ACHM Pavement Permanent Repair

Quantity: 150 UOM: SY Price: Total:

1.130 Electrical Service Connection

Quantity: 1 UOM: LS Price: Total:

1.131 Irrigation and Landscape Repairs (Allowance)

Quantity: 1 UOM: LS Price: Total:

1.132 Concrete Steps

Quantity: 7 UOM: SY Price: Total:

1.133 Stockpiling and Testing of Excess Material

Quantity: 1 UOM: LS Price: Total:

1.134 Disposal of Hazardous Material

Quantity: 100 UOM: CY Price: Total:

1.135 Inlet/Junction Box Backopening

Quantity: 2 UOM: EA Price: Total:

2 Package Header**PACKAGE B - WATER SCOPE**

The City intends to award whole Bid to single Contractor. Bidders shall submit a bid for ALL line items.

Quantity: 1 Total:

Package Items**2.1 12-Inch DR-14 PVC C900 Water Main**

Quantity: 3000 UOM: LF Price: Total:

2.2 8-Inch DR-14 PVC C900 Water Main

Quantity: 700 UOM: LF Price: Total:

2.3 6-Inch DIP CL350 Water Main

Quantity: 60 UOM: LF Price: Total:

2.4 4-Inch DR-14 PVC C900 Water Main

Quantity: 20 UOM: LF Price: Total:

2.5 2" SIDR-7 HDPE Service Line

Quantity: 360 UOM: LF Price: \$50.96 Total: \$18,345.60

2.6 1" CTS Coated Copper Tubing Service Line

Quantity: 200 UOM: LF Price: \$56.63 Total: \$11,326.00

2.7 1" HDPE Service Line

Quantity: 625 UOM: LF Price: \$39.64 Total: \$24,775.00

2.8 12"X12" Tapping Sleeve

Quantity: 1 UOM: EA Price: \$11,325.00 Total: \$11,325.00

2.9 8"X8" Tapping Sleeve

Quantity: 4 UOM: EA Price: \$10,192.00 Total: \$40,768.00

2.10 6"X6" Tapping Sleeve

Quantity: 1 UOM: EA Price: \$8,494.00 Total: \$8,494.00

2.11 4"X4" Tapping Sleeve

Quantity: 1 UOM: EA Price: \$5,096.00 Total: \$5,096.00

2.12 2"X2" Tapping Saddle

Quantity: 2 UOM: EA Price: \$3,964.00 Total: \$7,928.00

2.13 12"X2" Service Saddle and 2" Ball Valve w/Box

Quantity: 10 UOM: EA Price: \$2,378.00 Total: \$23,780.00

2.14 8"X2" Service Saddle

Quantity: 1 UOM: EA Price: \$1,698.00 Total: \$1,698.00

2.15 8"X1" Service Saddle

Quantity: 6 UOM: EA Price: \$1,245.75 Total: \$7,474.50

2.16 12" Butterfly Valve w/Box

Quantity: 7 UOM: EA Price: \$14,722.00 Total: \$103,054.00

2.17 12" Gate Valve

Quantity: 1 UOM: EA Price: \$9,626.00 Total: \$9,626.00

2.18 8" Gate Valve w/Box

Quantity: 18 UOM: EA Price: \$7,361.00 Total: \$132,498.00

2.19 6" Gate Valve w/Box

Quantity: 8 UOM: EA Price: \$6,228.00 Total: \$49,824.00

2.20 4" Gate Valve w/Box

Quantity: 1 UOM: EA Price: \$5,096.00 Total: \$5,096.00

2.21 2" Gate Valve w/Box

Quantity: 1 UOM: EA Price: \$3,963.00 Total: \$3,963.00

2.22 16-Inch Min. Diameter Steel Encasement by Direct Bury

Quantity: 70 UOM: LF Price: \$509.63 Total: \$35,674.10

2.23 Cut and Cap Existing Water Main

Quantity: 13 UOM: EA Price: \$3,964.00 Total: \$51,532.00

2.24 Connect New Water Main To Existing Water Main

Quantity: 9 UOM: EA Price: \$5,379.00 Total: \$48,411.00

2.25 Salvage Existing Fire Hydrant

Quantity: 1 UOM: EA Price: \$1,019.00 Total: \$1,019.00

2.26 Abandon Existing Valve

Quantity: 9 UOM: EA Price: \$962.00 Total: \$8,658.00

2.27 Abandon Existing Meter Setting and Service Line

Quantity: 18 UOM: EA Price: \$1,245.00 Total: \$22,410.00

2.28 New Single Water Meter Setting

Quantity: 15 UOM: EA Price: \$3,964.00 Total: \$59,460.00

2.29 Reconnect Existing Meter (Single)

Quantity: 2 UOM: EA Price: \$3,125.00 Total: \$6,250.00

2.30 Reconnect Existing Meter (Double)

Quantity: 2 UOM: EA Price: \$3,510.00 Total: \$7,020.00

2.31 Connect New Water Service Line to Existing Service Line

Quantity: 16 UOM: EA Price: \$2,038.00 Total: \$32,608.00

2.32 Three-Way Fire Hydrant Assembly

Quantity: 7 UOM: EA Price: \$10,758.00 Total: \$75,306.00

2.33 Ductile Iron Fittings

Quantity: 3750 UOM: LB Price: \$17.00 Total: \$63,750.00

2.34 12" Anchor Collar

Quantity: 1 UOM: EA Price: \$5,322.00 Total: \$5,322.00

2.35 8" Anchor Collar

Quantity: 4 UOM: EA Price: \$4,190.00 Total: \$16,760.00

2.36 Temporary Asphalt Pavement Repair

Quantity: 2000 UOM: SY Price: \$53.22 Total: \$106,440.00

2.37 Permanent Pavement Repair

Quantity: 350 UOM: SY Price: \$170.52 Total: \$59,682.00

2.38 Full Depth Class 7 ABC Backfill

Quantity: 5000 UOM: LF Price: \$32.73 Total: \$163,650.00

2.39 Flowable Fill To Fill Existing Water and Sewer Mains

Quantity: 3600 UOM: LF Price: \$33.98 Total: \$122,328.00

2.40 8-Inch PVC SDR-26 PVC Sanitary Sewer

Quantity: 360 UOM: LF Price: \$96.26 Total: \$34,653.60

2.41 6-Inch PVC SDR-26 PVC Sanitary Sewer

Quantity: 25 UOM: LF Price: \$84.94 Total: \$2,123.50

2.42 Abandon Existing Manhole

Quantity: 2 UOM: EA Price: \$3,737.00 Total: \$7,474.00

2.43 Remove Existing ManholeQuantity: 3 UOM: EA Price: Total: **2.44 Cut and Plug Existing Sanitary Sewer**Quantity: 2 UOM: EA Price: Total: **2.45 4' Diameter Manhole with Standard Frame and Cover**Quantity: 2 UOM: EA Price: Total: **2.46 4' Diameter Drop Manhole with Standard Frame and Cover**Quantity: 2 UOM: EA Price: Total: **2.47 4' Diameter Flat-Top Manhole**Quantity: 1 UOM: EA Price: Total: **3 Package Header****DEDUCTIVE ALTERNATE #1**Quantity: 1 Total: **Package Items****3.1 Traffic Control and Maintenance (Phase 3) - Line Item #59**Quantity: 1 UOM: LS Price: Total: **3.2 8" Thick Colored Concrete Crosswalk (Apple Red) - Line Item #68**Quantity: 320 UOM: SY Price: Total: **3.3 Traffic Signal Controller (Modification) - Line Item #81**Quantity: 2 UOM: EA Price: Total: **Response Total: \$8,624,654.49**



5500 Euper Lane
PO Box 3529
Ft. Smith, AR 72913 (479) 452-4000
www.bhca.com

Bid Bond

KNOW ALL MEN BY THESE PRESENTS, that we
(Here insert full name and address or legal title of Contractor)

Benchmark Construction of NWA, Inc.
333 West Poplar, Ste A
Fayetteville, AR 72703

as Principal, hereinafter called the Principal, and
(Here insert full name and address or legal title of Surety)

Westfield Insurance Company
P. O. Box 5001
Westfield Center, OH 44251-5001

a corporation duly organized under the laws of the State of Ohio
as Surety, hereinafter called the Surety, are held and firmly bound unto
(Here insert full name and address or legal title of Owner)

City of Fayetteville
113 W. Mountain Street
Fayetteville, AR 72701

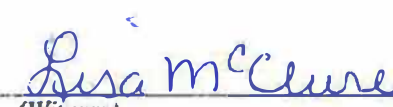
as Obligee, hereinafter called the Obligee, in the sum of **FIVE PERCENT OF THE TOTAL AMOUNT BID**
Dollars (\$ **5%**), for the payment
of which sum well and truly to be made, the said Principal and the said Surety, bind ourselves, our heirs, executors,
administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has submitted a bid for **College Ave North St to Sycamore Improvements**
(Here insert full name, address and description of project)

NOW, THEREFORE, if the Obligee shall accept the bid of the Principal and the Principal shall enter into a Contract with the Obligee in accordance with the terms of such bid, and give such bond or bonds as may be specified in the bidding or Contract Documents with good and sufficient surety for the faithful performance of such Contract and for the prompt payment of labor and material furnished in the prosecution thereof, or in the event of the failure of the Principal to enter such Contract and give such bond or bonds, if the Principal shall pay to the Obligee the difference not to exceed the penalty hereof between the amount specified in said bid and such larger amount for which the Obligee may in good faith contract with another party to perform the Work covered by said bid, then this obligation shall be null and void, otherwise to remain in full force and effect.

Signed and sealed this **19th** day of **November** **2024**


(Witness)

Principal)
(Title)

(Witness)

(Title)
Westfield Insurance Company
(Surety)
Mary Ann Justice, Attorney-In-Fact (Seal)

General
Power
of Attorney

CERTIFIED COPY

POWER NO. 0320052 05

Westfield Insurance Co.
Westfield National Insurance Co.
Ohio Farmers Insurance Co.
Westfield Center, Ohio

Know All Men by These Presents, That WESTFIELD INSURANCE COMPANY, WESTFIELD NATIONAL INSURANCE COMPANY and OHIO FARMERS INSURANCE COMPANY, corporations, hereinafter referred to individually as a "Company" and collectively as "Companies," duly organized and existing under the laws of the State of Ohio, and having its principal office in Westfield Center, Medina County, Ohio, do by these presents make, constitute and appoint

SCOTT R. CLARK, MARTY C. CLARK, SHANNON C. SCHMIDLY, ELIZABETH A. SOLOMON, MARY ANN JUSTICE, LISA MCCLURE, PAXTON CLARK, GRAVES SCHMIDLY, SUZANNE NIEDZWIEDZ, JOINTLY OR SEVERALLY

of FORT SMITH and State of AR its true and lawful Attorney(s)-in-Fact, with full power and authority hereby conferred in its name, place and stead, to execute, acknowledge and deliver any and all bonds, recognizances, undertakings, or other instruments or contracts of suretyship in any penal limit.

LIMITATION: THIS POWER OF ATTORNEY CANNOT BE USED TO EXECUTE NOTE GUARANTEE, MORTGAGE DEFICIENCY, MORTGAGE GUARANTEE, OR BANK DEPOSITORY BONDS.

and to bind any of the Companies thereby as fully and to the same extent as if such bonds were signed by the President, sealed with the corporate seal of the applicable Company and duly attested by its Secretary, hereby ratifying and confirming all that the said Attorney(s)-in-Fact may do in the premises. Said appointment is made under and by authority of the following resolution adopted by the Board of Directors of each of the WESTFIELD INSURANCE COMPANY, WESTFIELD NATIONAL INSURANCE COMPANY and OHIO FARMERS INSURANCE COMPANY:

"Be It Resolved, that the President, any Senior Executive, any Secretary or any Fidelity & Surety Operations Executive or other Executive shall be and is hereby vested with full power and authority to appoint any one or more suitable persons as Attorney(s)-in-Fact to represent and act for and on behalf of the Company subject to the following provisions:

The Attorney-in-Fact. may be given full power and authority for and in the name of and on behalf of the Company, to execute, acknowledge and deliver, any and all bonds, recognizances, contracts, agreements of indemnity and other conditional or obligatory undertakings and any and all notices and documents canceling or terminating the Company's liability thereunder, and any such instruments so executed by any such Attorney-in-Fact shall be as binding upon the Company as if signed by the President and sealed and attested by the Corporate Secretary."

"Be it Further Resolved, that the signature of any such designated person and the seal of the Company heretofore or hereafter affixed to any power of attorney or any certificate relating thereto by facsimile, and any power of attorney or certificate bearing facsimile signatures or facsimile seal shall be valid and binding upon the Company with respect to any bond or undertaking to which it is attached." (Each adopted at a meeting held on February 8, 2000).

In Witness Whereof, WESTFIELD INSURANCE COMPANY, WESTFIELD NATIONAL INSURANCE COMPANY and OHIO FARMERS INSURANCE COMPANY have caused these presents to be signed by their National Surety Leader and Senior Executive and their corporate seals to be hereto affixed this 27th day of JANUARY A.D., 2023.

Corporate
Seals
Affixed



WESTFIELD INSURANCE COMPANY
WESTFIELD NATIONAL INSURANCE COMPANY
OHIO FARMERS INSURANCE COMPANY

By:
Gary W. Stumper, National Surety Leader and
Senior Executive

State of Ohio
County of Medina ss.:

On this 27th day of JANUARY A.D., 2023, before me personally came Gary W. Stumper to me known, who, being by me duly sworn, did depose and say, that he resides in Medina, OH; that he is National Surety Leader and Senior Executive of WESTFIELD INSURANCE COMPANY, WESTFIELD NATIONAL INSURANCE COMPANY and OHIO FARMERS INSURANCE COMPANY, the companies described in and which executed the above instrument; that he knows the seals of said Companies; that the seals affixed to said instrument are such corporate seals; that they were so affixed by order of the Boards of Directors of said Companies; and that he signed his name thereto by like order.

Notarial
Seal
Affixed



State of Ohio
County of Medina ss.:

David A. Kotnik, Attorney at Law, Notary Public
My Commission Does Not Expire (Sec. 147.03 Ohio Revised Code)

I, Frank A. Carrino, Secretary of WESTFIELD INSURANCE COMPANY, WESTFIELD NATIONAL INSURANCE COMPANY and OHIO FARMERS INSURANCE COMPANY, do hereby certify that the above and foregoing is a true and correct copy of a Power of Attorney, executed by said Companies, which is still in full force and effect; and furthermore, the resolutions of the Boards of Directors, set out in the Power of Attorney are in full force and effect.

In Witness Whereof, I have hereunto set my hand and affixed the seals of said Companies at Westfield Center, Ohio, this 19th day of November A.D. 2024.



Frank A. Carrino, Secretary



Project Check List

This checklist is for the Bidder's use in preparing & submitting a bid. It is not intended to include all details necessary to prepare a bid and shall not be used as a substitute for the requirements of the bid documents. Use of this checklist does not relieve the Bidder from the responsibility of meeting all requirements of the Specifications concerning the preparation of an acceptable bid. Bidders are welcome to use this form as a coversheet for a sealed envelope; however, using this form itself is NOT a requirement.



5% Bid Bond of the amount bid accompanied by required documentation (Power of Attorney, etc.)

- In lieu of a bid bond, the bidder may submit a cashier's check from a bank located in the State of Arkansas for at least five percent (5%) of the amount bid (inclusive of any deductive alternates). Cashier's checks shall be made payable to the City of Fayetteville, AR and received prior to the bid deadline by making an in-person delivery appointment with the City Purchasing Division.



All addenda shall be signed, acknowledged, and submitted on the appropriate forms (submitting the actual addendums or marking acknowledgement on other bid pages).



All pages provided with signature lines shall be appropriately signed, dated accordingly, and included with submitted bid documents



All bids shall be received before the stated deadline utilizing the City's electronic bidding platform or submitting a physical sealed bid to the City Purchasing Division. Submitting a bid electronically is strongly encouraged. A public bid opening will be conducted shortly after the deadline at City Hall and livestreamed at <https://www.youtube.com/user/cityoffayettevillear>. Late or misdirected bids shall not be accepted. The City of Fayetteville shall not be responsible for lost or misdirected bids, or failure of bidder's technical equipment. If submitting a physical bid, all bid documents shall be delivered in a sealed envelope to the address stated in the advertisement or updated deadline issued via Addenda. All bids should be delivered with the name of the bidder (contractor) on the sealed envelope as well as the bidders Arkansas Contractor's License Number.



Additional Information Required:

- AR Secretary of State Filing OR proof of application #: 5381670002 OR submit electronically.
- Arkansas Contractor License OR proof of application #: 0033500525 OR submit electronically.
- SAM Unique Entity Identifier OR proof of application #: 900R2 OR submit electronically.
- Pursuant Arkansas Code Annotated §25-1-503, the Contractor agrees and certifies that they do not currently boycott Israel and will not boycott Israel during any time in which they are entering into, or while in contract, with any public entity as defined in §25-1-503. If at any time during contract the contractor decides to boycott Israel, the contractor must notify the contracted public entity in writing.
 - Submit electronically or circle applicable answer: **YES** or NO
- Pursuant Arkansas Code Annotated §25-1-1002, the Contractor agrees and certifies that they do not currently boycott Energy, Fossil Fuel, Firearms, and Ammunition Industries during any time in which they are entering into, or while in contract, with any public entity as defined in §25-1-1002. If at any time during the contract the contractor decides to boycott Energy, Fossil Fuel, Firearms, and/or Ammunition Industries, the contractor must notify the contracted public entity in writing.
 - Submit electronically or circle applicable answer: **YES** or NO

DOCUMENT 00140 – BIDDER'S QUALIFICATION STATEMENT

See attached.

Contract Name: North St. – Sycamore St. (College Ave.) (Fayetteville) (S)

Bid #: 24-48, Construction

Date: November 7, 2024

SUBMITTED TO:

The City of Fayetteville, Arkansas

113 West Mountain Street

Fayetteville, Arkansas 72701

SUBMITTED BY:

Company Benchmark Construction Company of NWA, Inc.

Name Stephen Smith, CEO

Address 333 West Poplar St, Ste A, Fayetteville, 72703

Principal Office _____

☒ Corporation, partnership, individual, joint
venture, other _____

(Type or legibly print)

EXPERIENCE STATEMENT

1. Bidder has been engaged as a General Contractor in construction for _____ years and has performed work of the nature and magnitude of this Contract for _____ years.
Bidder has been in business under its present name for _____ years.
2. Bidder now has the following bonded projects under contract: (On a separate sheet, list project name, owner, name of owner contact, engineer / architect, name of engineer/architect contact, amount of contract, surety, and estimated completion date.)
3. Bidder has completed the following (list minimum of 3) contracts consisting of work similar to that proposed by this Contract: (On a separate sheet, list project name, owner, name of owner contact, engineer / architect, name of engineer/architect

AIA G703

Contractor's Qualification Statement

SUBMITTED To: CITY OF JOHNSON

SUBMITTED BY: STEPHEN SMITH, CEO

NAME: BENCHMARK CONSTRUCTION OF NWA, INC.

ADDRESS: 333 WEST POPLAR ST, STE 'A', FAYETTEVILLE, AR 72703

PRINCIPAL OFFICE: ABOVE

(XX) Corporation

NAME OF PROJECT: Bid ²⁴⁻⁴⁸~~2024~~, College Ave North St to Sycamore Improvements

§ 1. ORGANIZATION

§ 1.1 How many years has your organization been in business as a Contractor? 38 Years

§ 1.2 How many years has your organization been in business under its present business name? 11 years

§ 1.2.1 Under what other or former names has your organization operated? Marinoni Construction Company, Inc.

§ 1.3 If your organization is a corporation, answer the following:

§ 1.3.1 Date of incorporation: June 1976

§ 1.3.2 State of incorporation: Arkansas

§ 1.3.3 President's name: Roger Ross

§ 1.3.4 Ceo name: Stephen Smith

§ 1.4 If your organization is a partnership, answer the following:

§ 1.4.1 Date of organization: Not Applicable

§ 1.4.2 Type of partnership (if applicable):

§ 1.5 If your organization is individually owned, answer the following:

§ 1.5.1 Date of organization: June 1976

§ 1.5.2 Name of Owners: Stephen Smith, Roger Ross

§ 1.6 If the form of your organization is other than those listed above, describe it and name the principals: NA

§ 2. LICENSING

§ 2.1 List jurisdictions and trade categories in which your organization is legally qualified to do business, and indicate registration or license numbers, if applicable.

Jurisdictions: Arkansas. LICENSE NUMBER: 0033500525

Trade Categories: General Construction of Commercial, Industrial and Institutional Projects

§ 2.2 List jurisdictions in which your organization's partnership or trade name is filed. Arkansas Secretary of State

§ 3. EXPERIENCE

§ 3.1 List the categories of work that your organization normally performs with its own forces.

Site Work, Dirt Work, Concrete, Framing, Masonry, Supervision, Rough and Finish Carpentry, Specialties

§ 3.2 Claims and Suits. (If the answer to any of the questions below is yes, please attach details~)

§ 3.2.1 Has your organization ever failed to complete any work awarded to it?: No

§ 3.2.2 Are there any judgments, claims, arbitration proceedings or suits pending or outstanding against your organization or its officers? No

§ 3.2.3 Has your organization filed any law suits or requested arbitration with regard to construction contracts within the last five years? No

§ 3.3 Within the last five years, has any officer or principal of your organization ever been an officer or principal of another organization when it failed to complete a construction contract? No

3.4 Projects Completed in the last 7 Years:

**Northwest Arkansas Regional Airport—Rental Fleet Maintenance Facility
Dale Scarbrough, WDD Architects (479-442-6681)**

**City of Rogers Veteran's Park Concessions/Maintenance Buildings
Jim Swearingen Architect, Crafton Tull and Associates (479-636-4838)**

**City of Fayetteville Compost Facility
Lynn Hyke (479-466-7589)**

**Gravette Middle School Annex
David Swearingen, Crafton Tull and Associates Architect (479-636-4838)**

**University of Arkansas—Davis Hall Historical Renovation/Addition. LEED Certified.
Rob Sharp Architect (479-442-0229)**

**Lincoln Athletic Complex (Football field, field house, track, concession/restroom building)
Lewis Elliott Architects, Mary Ann Spears, Supt of Schools (479-824-7310)**

**City of Springdale—Shiloh Restroom/Basement Remodel
Don Mobley Architect (479-466-1746)**

Highlands Oncology Cancer Treatment Facilities—Crafton Tull and Assoc Architects. Wes Burgess Architect (479-878-2452) Kathey Parker, Owner (479-587-1700)

**Starlight Skate Rink Renovation
Jim Key Architect (479-444-6066)**

SourceGas NWA Headquarters—Polk Stanley and Assoc, Craig Curzon Architect (479-444-0473)

**American Electric and Power/Swepeco Office/Warehouse Addition
AFHJ Architects (Zed Johnson, Retired)**

University of Arkansas—Brough Commons Dining Hall, Harrison French Architects, Lance Weatherton, Architect (479-273-7780)

JFS Fabric Store and Ulta Beauty Supply —Larry Ogrinc (logrinc@ddr.com) , Owner Rep for Developers Diversified.

University of Arkansas Harmon Parking Garage Renovations—Polk Stanley and Assoc, Craig Curzon Architect (479-444-0473). Jim Beatty Engineer.

Sequoiah Maison Condominiums—Rob Sharp Architect (442-0229)

Tyson Research Farm Broiler Houses/Operations Facility—Chris Hall

**Bank of Fayetteville Renovations
Bob King, President (479-444-4444)**

Decatur School District FEMA Storm Shelter/Gymnasium—Jim Mayer Architect (479-246-0055)

City of Fayetteville Transfer Station —Brad Hammond at Mcgoodwin, Williams and Yates

Ft Smith Airport Taxiway Paving--. Brian Mauer, Engineer

Boulder Ridge Fellowship Bible Church —Jack Murray (479-790-2854)

City of Fayetteville Taxiway B—Garver Engineers

Blowing Springs To Metfield Park Multi Purpose Trail Greenway Extension—EDG and Garver Engineers

Spring Creek Multi Purpose Trail Extension—McClelland Engineers

Black Hills Energy Contractor On-Call.

Highland Oncology Contractor On-Call.

Bekaert Trail Greenway Extension—NWA Trailblazers

Dean's Trail PH 2 Tunnel and Greenway Trail Extension—Garver Engineers

Archibald Yell Improvements—City of Fayetteville

North Street Widening (on-going)—City of Fayetteville

Mission Boulevard Site Drainage and Street (on-going)—City of Fayetteville

13TH Street Sidepath Shared Use Trail and Pedestrian Improvements—City of Rogers

§ 3.4.1 State total worth of work in progress and under contract:

Work in Progress: \$7 million

Work under contract: Most projects are in negotiation and not under contract terms at this time.

§ 3.5.1 State average annual amount of construction work performed during the past five years: \$8-10 million

§ 3.6 List the construction experience and present commitments of the key individuals of your organization.

Stephen Smith, owner, 38 years experience in commercial/industrial construction

Roger Ross, owner, 35 years experience in commercial/industrial construction

Chuck Ketcher, Supt, 26 years experience in commercial/industrial construction

Rick Vasquez, Foreman, 30 years experience

Armando Vasquez, Foreman, 25 years experience

Roberto Sanchez, Foreman, 30 years experience

Thomas Sargent, Foreman, 33 years experience

The remaining personnel with an average of 12 years working in our company consist of the rest of the construction team. All of our personnel carry skills to self-perform projects that allow schedules and budgets to be met. Simply stated, we are not a broker contractor.

Note: Our construction team, from the owners down to laborers, are 100 percent committed to satisfying each client. The ownership is not involved with any outside investments (ie developing etc..) that would distract our commitment to serving our clients!! The ownership also takes an active role in the projects that we build. Project management/Supervision is handled by the ownership, therefore a vested interest in client satisfaction is our objective.

§ 4. REFERENCES

§ 4.1 Trade References:

Brown Hiller Clark Insurance, Scott Clark, 452-4000

Tune Concrete 442-8251, Dennis Tune, 479-442-8251

Darragh Company, Ronnie McDaniel, 479-651-6800

Meeks Lumber Company, Tom Hamaker, 479-442-2351

Architects and Engineers: Have worked with all major firms in the NWA area over the last 33 years.

§ 4.2 Bank References:

Bank of Fayetteville (Bob King VP, MaryBeth Brooks President) 479-444-4444

\$500,000 Line of Credit

§ 4.3 Surety:

§4.3.1 Name of bonding company: Westfield Insurance Company

§ 4.3.2 Name and address of agent:

Brown Hiller Clark
5500 Euper Lane
Ft Smith, Ar 72913
Scott Clark 479-452-4000

§ 6. SIGNATURE

§ 6.1 Dated at this ¹⁹~~20~~TH day of ~~June~~^{NOV.}, 2024

Name of Organization: Benchmark Construction of NWA, Inc.

By: Stephen Smith Stephen Smith

Title: CEO

DOCUMENT 00400 – BID FORM

Contract Name: North St. – Sycamore St. (College Ave.) (Fayetteville) (S)

Bid Number: 24-48

BID TO:

Owner: The City of Fayetteville, Arkansas
113 West Mountain Street
Fayetteville, Arkansas 72701

BID FROM:

Bidder: Benchmark Construction Company of NWA, Inc.
333 West Poplar St, Ste A, Fayetteville, 72703

ARTICLE 1 - INTENT

- 1.01 The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an agreement with Owner in the form included in the Contract Documents to perform and furnish all Work as specified or indicated in the Contract Documents for the Bid price and within the Bid time indicated in this Bid and in accordance with the other terms and conditions of the Contract Documents.

ARTICLE 2 - TERMS AND CONDITIONS

- 2.01 Bidder accepts all of the terms and conditions of the Invitation to Bid and Instructions to Bidders, including without limitation those dealing with the disposition of Bid security. This Bid will remain subject to acceptance for 90 days after the day of Bid opening. Bidder will sign and deliver the required number of counterparts of the Agreement with the Bonds and other documents required by the Bidding Requirements within 15 days after the date of Owner's Notice of Award.

ARTICLE 3 - BIDDER'S REPRESENTATIONS

- 3.01 In submitting this Bid, Bidder represents, as more fully set forth in the Agreement, that:
- A. Bidder has examined and carefully studied the Bid Documents, and the following Addenda, receipt of all which is hereby acknowledged:

<u>Number</u>	<u>Date</u>
<u>1</u>	<u>10-28-24</u>
<u>2</u>	<u>11-4-24</u>
<u>3</u>	<u>11-7-24</u>

DOCUMENT 00400 - BID FORM (continued)

4

10-13-24

- B. Bidder has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, performance, and furnishing of the Work.
- C. Bidder is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, performance, and furnishing of the Work.
- D. Bidder has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site; and (2) reports and drawings of a Hazardous Environmental Condition, if any, at the Site. Bidder acknowledges that such reports and drawings are not Contract Documents and may not be complete for Bidder's purposes. Bidder acknowledges that Owner and Engineer do not assume responsibility for the accuracy or completeness of information and data shown or indicated in the Bid Documents with respect to Underground Facilities at or contiguous to the Site.
- E. Bidder has obtained and carefully studied (or assumes responsibility for having done so) all such additional or supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the Site or otherwise which may affect cost, progress, performance, or furnishing of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by Bidder and safety precautions and programs incident thereto.
- F. Bidder does not consider that any additional examinations, investigations, explorations, tests, studies, or data are necessary for the determination of this Bid for performing and furnishing of the Work in accordance with the times, price, and other terms and conditions of the Contract Documents.
- G. Bidder is aware of the general nature of work to be performed by Owner and others at the Site that relates to Work for which this Bid is submitted as indicated in the Contract Documents.
- I. Bidder has given The Purchasing Division written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder has discovered in the Contract Documents, and the written resolution thereof by Engineer is acceptable to Bidder.
- J. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performing and furnishing the Work for which this Bid is submitted.
- K. This Bid is genuine and not made in the interest of or on behalf of any undisclosed person, firm, or corporation and is not submitted in conformity with any agreement or rules of any group, association, organization, or corporation; Bidder has not directly or

DOCUMENT 00400 – BID FORM (continued)

indirectly induced or solicited any other Bidder to submit a false or sham bid; Bidder has not solicited or induced any person, firm, or a corporation to refrain from bidding; and Bidder has not sought by collusion to obtain for himself any advantage over any other Bidder or over Owner.

- L. Bidder will perform the Work in compliance with all applicable trench safety standards set forth in Occupational Safety and Health Administration (OSHA) Part 1926 - Subpart P - Excavations.

ARTICLE 4 - BID PRICE

Bidders are required to provide pricing for all line items, including deductive alternate items. Failure to provide deductive alternate pricing can result in bid rejection.

The City intends to award this contract to the lowest qualified responsive responsible bidder based on the total base bid as long as the base bid amount falls within the amount of funds certified for the project plus 25%.

In the event no bid falls within the amount of funds certified for the project plus 25%, the City will utilize the deductive alternates in order to further evaluate bids until a bid received falls within the amount certified, plus 25%.

In the event all deductive alternates are subtracted from the total base bid and no bid falls within the amount certified, plus 25%, all bids shall be rejected and become confidential.

In no case shall the amount bid for the item of "mobilization" exceed 5% of the total contract amount for all items listed in the proposal or bid, minus bonds and insurance. Should the amount entered into the proposal or bid for this item exceed 5%, the bid shall be rejected.

Bidder shall complete the work in accordance with the Contract Documents for the price(s) submitted by the Bidder.

This bid includes one (1) deductive alternate. Bidders shall submit fair, marketable representation for bid pricing for all deductive alternates. Failure to submit fair, marketable representation pricing for deductive alternates can result in rejection of bid at the discretion of the City. If deductive alternates are utilized, they shall be taken in order.

The deductive alternate includes removal of the "8" Thick Colored Concrete Crosswalk (Apple Red)" and the associated traffic control phase and signal modifications that are necessary for construction of the concrete walk.

ARTICLE 5 - CONTRACT ITEMS

- ## **ARTICLE 6 - BID CONTENT**

- ## ARTICLE 7 - COMMUNICATIONS

- Fax No. 479-251-1319

Doing business as: _____

DOCUMENT 00400 – BID FORM (continued)

Business address: _____

Phone No. _____ Fax No. _____

Email address: _____

A Partnership

Partnership Name: _____ (SEAL)

By: _____

(Signature of general partner - attach evidence of authority to sign)

Name (type or printed): _____

Business address: _____

Phone No. _____ Fax No. _____

Email address: _____

☒ A Corporation or LLC

Corporation Name: Benchmark Construction Company of NWA, Inc. (SEAL)

State of Incorporation: Arkansas

Type: (General Business, Professional, Service, Limited Liability): _____

By:  _____

(Signature of general partner - attach evidence of authority to sign)

Name (type or printed): Stephen Smit CEO

Title: CEO

(CORPORATE SEAL)

Attest:  _____

(Signature of Corporate Secretary)

Phone No. 479-251-1316 Fax No. _____

Email address: Benchmarkconst@aatt.net

Tax ID Number (TIN): 71-0477532

UEI # L4N2V64MR2E4

Cage Code: 900R2

DOCUMENT 00430 – LIST OF SUBCONTRACTORS

In compliance with the Instructions to Bidders and other Contract Documents, the undersigned submits the following names of Subcontractors to be used in performing the Work for:

NORTH ST. – SYCAMORE ST. (COLLEGE AVE.) (FAYETTEVILLE) (S)

Bidder certifies that all Subcontractors listed are eligible to perform the Work.

<u>Subcontractor's Work</u>	<u>Subcontractor's Name and Address</u>	<u>Expected Percentage or Value</u>
Clearing/Demolition	BENCHMARK	89%
SWPPP/Erosion Control	BENCHMARK	<1%
Asphalt	APAC	7.5%
Concrete	BENCHMARK	12%
Landscaping	CUSTOM	3%
Material Testing	BY OWNER	—
Other (designate)		

NOTE: This form must be submitted in accordance with the Instructions to Bidders.


Bidder's Signature

END OF DOCUMENT 00430

CITY OF FAYETTEVILLE

CERTIFICATION TO SUBMIT DBE PARTICIPATION

JOB 040887

**FAILURE TO COMPLY WITH ONE OF THE FOLLOWING SHALL RENDER THIS
BID NONRESPONSIVE AND NOT ELIGIBLE FOR AWARD CONSIDERATION**

- (1) **SUBMITTAL OF REQUIRED DBE PARTICIPATION INFORMATION,**
- (2) **SUBMITTAL OF DOCUMENTATION OF GOOD FAITH EFFORTS, OR**
- (3) **SUBMITTAL OF THE CERTIFICATION TO SUBMIT DBE PARTICIPATION**

✓ By submitting a proposal, the undersigned bidder irrevocably certifies that an amount equal to or greater than the Disadvantaged Business Enterprise (DBE) Goal of **6.00%** established for this project will be performed by certified Disadvantaged Business Enterprise firms and the required DBE participation information will be submitted within 5 calendar days of the date of the bid opening.

✓ Within five (5) calendar days of the date of the bid letting, all bidders shall furnish the required DBE Participation information to the Owner on the forms provided to be considered a responsive bid. If a conditional award has been made and the successful bidder has not furnished the required information, the proposal will be rejected and their proposal guaranty forfeited. The proposal guaranty shall become property of the Owner, not as a penalty, but in liquidation of damages, sustained to the DBE Program. Award may then be made to the next lowest, responsive bidder or the work may be re-advertised as the Owner may decide.

Only work, materials, or services that will actually be provided by DBE firms will be credited toward the goal. The DBE firm's certification must be fully in effect at the letting date.

As an alternative, documentation of Good Faith Efforts to meet the DBE goal may be submitted to the Owner prior to the deadline for proposals to be received.

BENCHMARK CONST

Bidder

~~11-19-24~~

Date

NEW
BID DATE
11-19-24



Signature (Owner/Agent)

CEO

Title

THE CITY OF FAYETTEVILLE
SUPPLEMENT TO PROPOSAL
ANTI-COLLUSION AND DEBARMENT CERTIFICATION

**FAILURE TO EXECUTE AND SUBMIT THIS CERTIFICATION SHALL RENDER THIS BID
NONRESPONSIVE AND NOT ELIGIBLE FOR AWARD CONSIDERATION.**

As a condition precedent to the acceptance of the bidding document for this project, the bidder shall file this Affidavit executed by, or on behalf of the person, firm, association, or corporation submitting the bid. The original of this Affidavit shall be filed with the City of Fayetteville **at the time proposals are submitted.**

A F F I D A V I T

I hereby certify, under penalty of perjury under the laws of the United States and/or the State of Arkansas, that the bidder listed below has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with the submitted bid for this project, is not presently barred from bidding in any other jurisdiction as a result of any collusion or any other action in restraint of free competition, and that the foregoing is true and correct.

Further, that except as noted below, the bidder, or any person associated therewith in the capacity of owner, partner, director, officer, principal investigator, project director, manager, auditor, or any position involving the administration of Federal funds:

- a. is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any Federal agency;
- b. has not been suspended, debarred, voluntarily excluded or determined ineligible by any Federal agency within the past 3 years;
- c. does not have a proposed debarment pending; and
- d. has not been indicted, convicted, or had an adverse civil judgment rendered by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past 3 years.

THE CITY OF FAYETTEVILLE
SUPPLEMENT TO PROPOSAL
ANTI-COLLUSION AND DEBARMENT CERTIFICATION

**FAILURE TO EXECUTE AND SUBMIT THIS CERTIFICATION SHALL RENDER THIS BID
NONRESPONSIVE AND NOT ELIGIBLE FOR AWARD CONSIDERATION.**

EXCEPTIONS:

APPLIED TO	INITIATING AGENCY	DATES OF ACTION

Exceptions will not necessarily result in denial of award, but will be considered in determining bidder responsibility. Providing false information may result in criminal prosecution or administrative sanctions.

Job No. 040887	Benchmark Construction
F.A.P. No. STPII-9142 (53)	 (Name of Bidder)
JUN 11 2011 ¹⁹ 11-19-24 (Date Executed)	(Signature) CEO (Title of Person Signing)

The following Notary Public certification is **OPTIONAL** and may or may not be completed at the contractor's discretion.

State of _____)
 County of _____)ss.

_____, being duly sworn, deposes and says that he is

_____ of _____
 (Title) (Name of Bidder)

and that the above statements are true and correct.

Subscribed and Sworn to before me this _____ day of _____, 20____.
 My commission expires: _____

(NOTARY SEAL)

(Notary Public)

THE CITY OF FAYETTEVILLE
SUPPLEMENT TO PROPOSAL
C E R T I F I C A T I O N

The prospective contractor certifies, by signing and submitting this proposal, to the best of his or her knowledge and belief, that:

- 1 No Federal appropriated funds have been paid or will be paid, by or on his or her behalf, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or any employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- 2 If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal-Aid contract, the prospective contractor shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities", in accordance with its instructions. (Available from Arkansas State Highway and Transportation Department, Programs and Contracts Division).

This Certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. This Certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U. S. Code.

During the period of performance of this contract, the contractor and all lower tier subcontractors must file a Form-LLL at the end of each calendar year quarter in which there occurs any event that requires disclosure or that materially affects the accuracy of the information contained in any previously filed disclosure form. Any person who fails to file the required Certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each failure.

The prospective contractor also agrees by submitting his or her proposal that he or she shall require that the language of this Certification be included in all lower tier subcontracts which exceed \$100,000 and that all such subcontractors shall certify and disclose accordingly.

THE CITY OF FAYETTEVILLE
SUPPLEMENT TO PROPOSAL
C E R T I F I C A T I O N

THIS CERTIFICATION SHALL BE COMPLETED BY THE BIDDER AS
PART OF THIS PROPOSAL

The bidder Benchmark Construction, proposed subcontractor _____, hereby certifies that he has ✓, has not _____, participated in a previous contract or subcontract subject to the equal opportunity clause, as required by Executive Orders 10925, 11114, or 11246, and that he has ✓, has not _____, filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements.

(Currently, Standard Form 100 [EEO-1] is the only report required by the Executive Orders or their implementing regulations.)

JOB NO. 0407887

Benchmark Construction Company of NWA, Inc.

(Company)

F.A.P. NO. STPU-9142 (53)

By: [Signature]

(Signature)

11-19-24

(Date Executed)

CEO

(Title of Person Signing)

NOTE: The above certification is required by the Equal Employment Opportunity Regulations of the Secretary of Labor (41 CFR 60-1.7 (b) (1)), and must be submitted by bidders and proposed subcontractors only in connection with contracts and subcontracts which are subject to the equal opportunity clause. Contracts and subcontracts which are exempt from the equal opportunity clause are set forth in 41 CFR 60-1.5. (Generally only contracts or subcontracts of \$10,000 or under are exempt.)

Proposed prime contractors and subcontractors who have participated in a previous contract or subcontract subject to the Executive Orders and have not filed the required reports should note that 41 CFR 60-1.7 (b) (1) prevents the award of contracts and subcontracts unless such contractor submits a report covering the delinquent period or such other period specified by the Federal Highway Administration or by the Director, Office of Federal Contract Compliance, U. S. Department of Labor.

BENCHMARK CONSTRUCTION DBE PARTICIPATION SUMMARY

ARKANSAS DEPARTMENT OF TRANSPORTATION

DISADVANTAGED BUSINESS ENTERPRISE (DBE) PARTICIPATION

JOB 040887

NOTE: PROPOSED PARTICIPATION BY DBEs MAY BE SHOWN BELOW AND SUBMITTED WITH BIDDER'S PROPOSAL, OR THE REQUIRED INFORMATION MAY BE SUBMITTED IN KEEPING WITH THE STANDARD SPECIFICATIONS AND THE SPECIAL PROVISIONS "GOALS FOR DISADVANTAGED BUSINESS ENTERPRISE PARTICIPATION" AND "DISADVANTAGED BUSINESS ENTERPRISE BIDDER'S RESPONSIBILITIES".

As provided in the Special Provision "Goals for Disadvantaged Business Enterprise Participation", the undersigned bidder proposes to use the certified DISADVANTAGED BUSINESS ENTERPRISE (DBE) subcontractors listed below to meet the goal of 6.00% of the total contract by DBEs. Only work or services that will actually be provided by the DBE firm(s) should be shown.

NAME & ADDRESS	LINE #	ITEM DESCRIPTION	AMOUNT
CREATIVE DESIGN CONCEPTS	See attached	CONCRETE BARRICADES	\$ 78,200.00
APAC ASPHALT	See attached	ASPHALT HAULING	45,420.00
TIME STRIPING	See attached	TRAFFIC CONTROL, STRIPING	232,472.00
EMS CONSTRUCTION	See attached	FENCING	205,117.50

If any firm listed above is a regular dealer, but not a manufacturer, the total amount of the agreement and the amount to be credited (60%) should be recorded on this form.

Total for DBEs - \$ 561,209.50 or 6.5 % of bid.

Benchmark Construction Company of NWA, Inc.
(Contractor)

By: Stephen Smith
Title: CEO

The named DBE subcontractors confirm their participation in the contract as provided in the commitment.

<u>DBE Firm:</u>	<u>DBE Owner or Authorized Representative's Signature:</u>
1. _____	_____
2. _____	_____
3. _____	_____
4. _____	_____

ARKANSAS DEPARTMENT OF TRANSPORTATION

DISADVANTAGED BUSINESS ENTERPRISE (DBE) PARTICIPATION

JOB 040887

NOTE: PROPOSED PARTICIPATION BY DBEs MAY BE SHOWN BELOW AND SUBMITTED WITH BIDDER'S PROPOSAL, OR THE REQUIRED INFORMATION MAY BE SUBMITTED IN KEEPING WITH THE STANDARD SPECIFICATIONS AND THE SPECIAL PROVISIONS "GOALS FOR DISADVANTAGED BUSINESS ENTERPRISE PARTICIPATION" AND "DISADVANTAGED BUSINESS ENTERPRISE BIDDER'S RESPONSIBILITIES".

As provided in the Special Provision "Goals for Disadvantaged Business Enterprise Participation", the undersigned bidder proposes to use the certified DISADVANTAGED BUSINESS ENTERPRISE (DBE) subcontractors listed below to meet the goal of **11.00%** of the total contract by DBEs. Only work or services that will actually be provided by the DBE firm(s) should be shown.

[illegible]

If any firm listed above is a regular dealer, but not a manufacturer, the total amount of the agreement and the amount to be credited (60%) should be recorded on this form.

Total for DBEs - \$ 205,117.5 or 0 % of bid.

EMS Construction
(Contractor)

By: Amanda Preston

(Contractor)
Amanda Preston

Title: Preston

The named DBE subcontractors confirm their participation in the contract as provided in the commitment.

DBE Firm:

DBE Owner or Authorized Representative's Signature:

1. _____
2. _____
3. _____
4. _____

DISADVANTAGED BUSINESS ENTERPRISE (DBE) PARTICIPATION

College Avenue Improvements

NOTE: PROPOSED PARTICIPATION BY DBEs MAY BE SHOWN BELOW AND SUBMITTED WITH BIDDER'S PROPOSAL, OR THE REQUIRED INFORMATION MAY BE SUBMITTED IN KEEPING WITH THE STANDARD SPECIFICATIONS AND THE SPECIAL PROVISIONS "GOALS FOR DISADVANTAGED BUSINESS ENTERPRISE PARTICIPATION" AND "DISADVANTAGED BUSINESS ENTERPRISE BIDDER'S RESPONSIBILITIES".

As provided in the Special Provision "Goals for Disadvantaged Business Enterprise Participation", the undersigned bidder proposes to use the certified DISADVANTAGED BUSINESS ENTERPRISE (DBE) subcontractors listed below to meet the goal of 6.00% of the total contract by DBEs. Only work or services that will actually be provided by the DBE firm(s) should be shown.

NAME & ADDRESS	LINE #	ITEM DESCRIPTION	AMOUNT
APAC Central	1.31	PG 70-22 Oil & Hauling	\$ 45,420
755 E. Millsap Rd			
Fayetteville, AR 72703			

If any firm listed above is a regular dealer, but not a manufacturer, the total amount of the agreement and the amount to be credited (60%) should be recorded on this form.

Total for DBEs - \$ 45,420 or _____ % of bid.

APAC Central
(Contractor)

By: Doug Luetjen

Title: Operations Manager of Construction & Estimating

The named DBE subcontractors confirm their participation in the contract as provided in the commitment.

DBE Firm:

DBE Owner or Authorized Representative's Signature:

1. EMS Hauling Inc - DBE Certified

2. PQ Box 1808 Van Buren Arkansas

3. 479-652-744

4. Amanda ems-hauling.com

ARKANSAS DEPARTMENT OF TRANSPORTATION

DISADVANTAGED BUSINESS ENTERPRISE (DBE) PARTICIPATION

JOB 040887

NOTE: PROPOSED PARTICIPATION BY DBEs MAY BE SHOWN BELOW AND SUBMITTED WITH BIDDER'S PROPOSAL, OR THE REQUIRED INFORMATION MAY BE SUBMITTED IN KEEPING WITH THE STANDARD SPECIFICATIONS AND THE SPECIAL PROVISIONS "GOALS FOR DISADVANTAGED BUSINESS ENTERPRISE PARTICIPATION" AND "DISADVANTAGED BUSINESS ENTERPRISE BIDDER'S RESPONSIBILITIES".

As provided in the Special Provision "Goals for Disadvantaged Business Enterprise Participation", the undersigned bidder proposes to use the certified DISADVANTAGED BUSINESS ENTERPRISE (DBE) subcontractors listed below to meet the goal of **6.00%** of the total contract by DBEs. Only work or services that will actually be provided by the DBE firm(s) should be shown.

NAME & ADDRESS	LINE #	ITEM DESCRIPTION	AMOUNT
CREATIVE DESIGN CONCEPTS	57	PH 1 TRAFFIC CONTROL	\$
PO BOX 429		PRE CAST CONCRETE BARRICADES	78,200.00
VAN BUREN, AR 72957			

If any firm listed above is a regular dealer, but not a manufacturer, the total amount of the agreement and the amount to be credited (60%) should be recorded on this form.

Total for DBEs - \$ 78,200.00 or _____ % of bid.

(Contractor)

By: _____

Title: _____

The named DBE subcontractors confirm their participation in the contract as provided in the commitment.

DBE Firm:

DBE Owner or Authorized Representative's Signature:

- | | |
|--|-----------------------|
| 1. <u>Creative Design Concepts, Inc.</u> | <u>Sarah Stillman</u> |
| 2. _____ | _____ |
| 3. _____ | _____ |
| 4. _____ | _____ |

ARKANSAS DEPARTMENT OF TRANSPORTATION

DISADVANTAGED BUSINESS ENTERPRISE (DBE) PARTICIPATION

JOB 040887

NOTE: PROPOSED PARTICIPATION BY DBEs MAY BE SHOWN BELOW AND SUBMITTED WITH BIDDER'S PROPOSAL, OR THE REQUIRED INFORMATION MAY BE SUBMITTED IN KEEPING WITH THE STANDARD SPECIFICATIONS AND THE SPECIAL PROVISIONS "GOALS FOR DISADVANTAGED BUSINESS ENTERPRISE PARTICIPATION" AND "DISADVANTAGED BUSINESS ENTERPRISE BIDDER'S RESPONSIBILITIES".

As provided in the Special Provision "Goals for Disadvantaged Business Enterprise Participation", the undersigned bidder proposes to use the certified DISADVANTAGED BUSINESS ENTERPRISE (DBE) subcontractors listed below to meet the goal of 6.00% of the total contract by DBEs. Only work or services that will actually be provided by the DBE firm(s) should be shown.

NAME & ADDRESS	LINE #	ITEM DESCRIPTION	AMOUNT
TIME STRIPING, INC PO BOX 1236	61	PORTABLE MESSAGE SIGN	\$ 45,320.00
VAN BUREN, AR 72957	64	PROJECT SIGNS	1,950.00
	44	REMOVE AND REPLACE MAILBOX	800.00
	45	4 IN STRIPING	2,115.00
	46	6 IN STRIPING	12,069.80
	47	12 IN STRIPING	1,918.00
	48	24 IN STRIPING	16,800.00
	51	THERMOPLAST PVMT MKG--WORD	2,700.00
	50	THERMOPLAST PVMT MKG--ARROW	6,375.00
	53	THERMOPLAST PVT MKG--BIKE SYMBOL	325.00

If any firm listed above is a regular dealer, but not a manufacturer, the total amount of the agreement and the amount to be credited (60%) should be recorded on this form.

Total for DBEs - \$ _____ or _____ % of bid.

Benchmark Construction Co.
(Contractor)

By: _____

Title: _____

The named DBE subcontractors confirm their participation in the contract as provided in the commitment.

DBE Firm:

DBE Owner or Authorized Representative's Signature:

1. TIME STRIPING, INC.
2. _____
3. _____
4. _____

Cindy Williams, President

ARKANSAS DEPARTMENT OF TRANSPORTATION

DISADVANTAGED BUSINESS ENTERPRISE (DBE) PARTICIPATION

JOB 040887

NOTE: PROPOSED PARTICIPATION BY DBEs MAY BE SHOWN BELOW AND SUBMITTED WITH BIDDER'S PROPOSAL, OR THE REQUIRED INFORMATION MAY BE SUBMITTED IN KEEPING WITH THE STANDARD SPECIFICATIONS AND THE SPECIAL PROVISIONS "GOALS FOR DISADVANTAGED BUSINESS ENTERPRISE PARTICIPATION" AND "DISADVANTAGED BUSINESS ENTERPRISE BIDDER'S RESPONSIBILITIES".

As provided in the Special Provision "Goals for Disadvantaged Business Enterprise Participation", the undersigned bidder proposes to use the certified DISADVANTAGED BUSINESS ENTERPRISE (DBE) subcontractors listed below to meet the goal of 6.00% of the total contract by DBEs. Only work or services that will actually be provided by the DBE firm(s) should be shown.

NAME & ADDRESS	LINE #	ITEM DESCRIPTION	AMOUNT
	49	THERMOPLAS PVT MKG--YIELD	\$ 225.00
	54	PREFORMED THERMOPLAS--BRICK PATTERN	57,600
	52	THERMOPLAST PVT MKG--HANDICAP	400.00
	55	STD STREET SIGN INSTALL	3,375.00
	57	TEMP ATTEN BARRIER	9,000.00
	57	PH 1 TRAFFIC CONTROL	47,500.00
	58	PH 2 TRAFFIC CONTROL	9,500.00
	59	PH 3 TRAFFIC CONTROL	5,000.00
	60	PH 4 TRAFFIC CONTROL	9,500.00

If any firm listed above is a regular dealer, but not a manufacturer, the total amount of the agreement and the amount to be credited (60%) should be recorded on this form.

Total for DBEs - \$ 232,472.00 or _____ % of bid.

Benchmark Construction Co.
(Contractor)

By: _____

Title: _____

The named DBE subcontractors confirm their participation in the contract as provided in the commitment.

DBE Firm:

DBE Owner or Authorized Representative's Signature:

1. TIME STRIPING, INC.
2. _____
3. _____
4. _____

Cindy McWilliams, President



BID TABULATION

Bid 24-48, Construction - College Ave. Improvements (North to Sycamore) Rebid #2

DEADLINE: Tuesday, November 19, 2024 at 2:00 PM

Certification of Funds: \$11,000,000.00 (\$13,750,000.00 total allowed)

REJECTED - Failure to supply
required DBE information

				Benchmark Construction Company of NWA, Inc.		Tri Star Contractors		Crossland Heavy Contractors, Inc.	
				Total	\$8,693,634.49	\$9,426,764.27		\$9,974,661.00	
Line #	Description	QTY	UOM	Unit	Extended	Unit	Extended	Unit	Extended
PACKAGE A - STREET SCOPE					\$6,846,271.59		\$7,472,144.27		\$7,634,706.00
1.1	Mobilization (Not to Exceed 5% of TOTAL BASE BID, not including Trench and Excavation Safety or Bonds and Insurance)	1	LS	\$417,758.00	\$417,758.00	\$436,425.98	\$436,425.98	\$454,000.00	\$454,000.00
1.2	Insurance and Bonding	1	LS	\$231,838.00	\$231,838.00	\$261,855.59	\$261,855.59	\$205,509.00	\$205,509.00
1.3	Roadway Construction Control	1	LS	\$197,390.00	\$197,390.00	\$85,000.00	\$85,000.00	\$326,215.00	\$326,215.00
1.4	Trench and Excavation Safety Systems	1	LS	\$1,700.00	\$1,700.00	\$5,000.00	\$5,000.00	\$30,796.00	\$30,796.00
1.5	Clearing, Grubbing, and Demolition	1	LS	\$861,791.00	\$861,791.00	\$185,000.00	\$185,000.00	\$346,679.00	\$346,679.00
1.6	Unclassified Excavation (Plan Quantity)	2,100	CY	\$34.37	\$72,177.00	\$25.00	\$52,500.00	\$51.00	\$107,100.00
1.7	Embankment (Plan Quantity)	1,300	CY	\$42.98	\$55,874.00	\$35.00	\$45,500.00	\$62.00	\$80,600.00
1.8	Undercut and Backfill	250	CY	\$68.60	\$17,150.00	\$37.00	\$9,250.00	\$104.00	\$26,000.00
1.9	Rock Excavation	10	CY	\$400.00	\$4,000.00	\$300.00	\$3,000.00	\$373.00	\$3,730.00
1.10	Subgrade Preparation (Plan Quantity)	2,109	SY	\$4.96	\$10,460.64	\$15.00	\$31,635.00	\$9.00	\$18,981.00
1.11	4" Topsoil Placement (Yard Areas)	5,175	SY	\$27.00	\$139,725.00	\$45.00	\$232,875.00	\$8.00	\$41,400.00
1.12	12" Class III R.C. Pipe	7	LF	\$57.14	\$399.98	\$75.00	\$525.00	\$240.00	\$1,680.00
1.13	18" Class III R.C. Pipe	22	LF	\$99.55	\$2,190.10	\$85.00	\$1,870.00	\$164.00	\$3,608.00
1.14	24" Class III R.C. Pipe	21	LF	\$150.95	\$3,169.95	\$95.00	\$1,995.00	\$288.00	\$6,048.00
1.15	18" Class III R.C. Flared End Section	1	EA	\$1,500.00	\$1,500.00	\$1,200.00	\$1,200.00	\$1,923.00	\$1,923.00
1.16	24" Class III R.C. Flared End Section	1	EA	\$2,080.00	\$2,080.00	\$1,800.00	\$1,800.00	\$2,058.00	\$2,058.00
1.17	Pipe Collar	5	EA	\$864.00	\$4,320.00	\$4,500.00	\$22,500.00	\$1,428.00	\$7,140.00
1.18	Sidewalk Underdrain	1	EA	\$2,020.00	\$2,020.00	\$8,500.00	\$8,500.00	\$4,409.00	\$4,409.00
1.19	4" Curb Inlet (Circular)	3	EA	\$6,856.00	\$20,568.00	\$6,500.00	\$19,500.00	\$8,644.00	\$25,926.00
1.20	5" Curb Inlet (Circular)	2	EA	\$8,315.00	\$16,630.00	\$7,500.00	\$15,000.00	\$15,644.00	\$31,288.00
1.21	4'x6' Curb Inlet (Rectangular)	2	EA	\$12,087.00	\$24,174.00	\$7,900.00	\$15,800.00	\$14,233.00	\$28,466.00
1.22	4'x7' Curb Inlet (Rectangular)	2	EA	\$12,220.00	\$24,440.00	\$8,500.00	\$17,000.00	\$15,386.00	\$30,772.00
1.23	Reconstruct Inlet Top with Extended Throat	4	EA	\$4,961.00	\$19,844.00	\$4,750.00	\$19,000.00	\$4,608.00	\$18,432.00
1.24	4" Junction Box (Circular)	1	EA	\$9,448.00	\$9,448.00	\$6,000.00	\$6,000.00	\$8,402.00	\$8,402.00
1.25	4'x6" Junction Box	1	EA	\$15,238.00	\$15,238.00	\$7,800.00	\$7,800.00	\$17,864.00	\$17,864.00
1.26	4" Drop Inlet Extension	6	EA	\$1,878.00	\$11,268.00	\$2,200.00	\$13,200.00	\$2,957.00	\$17,742.00
1.27	8" Drop Inlet Extension	6	EA	\$3,757.00	\$22,542.00	\$4,400.00	\$26,400.00	\$3,960.00	\$23,760.00
1.28	Concrete Channel Paving	6	SY	\$207.00	\$1,242.00	\$150.00	\$900.00	\$146.00	\$876.00
1.29	Erosion Control Fabric (Scourstop)	25	SY	\$98.00	\$2,450.00	\$400.00	\$10,000.00	\$455.00	\$11,375.00
1.30	6" Aggregate Base Course	2,109	SY	\$29.78	\$62,806.02	\$50.00	\$105,450.00	\$29.00	\$61,161.00
1.31	Asphalt Concrete Hot Mix Surface Course (ACHMSC)	2,300	Ton	\$186.86	\$429,778.00	\$160.00	\$368,000.00	\$212.00	\$487,600.00
1.32	Concrete Curb and Gutter (Type D) (1'-6")	7,444	LF	\$36.63	\$272,673.72	\$22.00	\$163,768.00	\$35.00	\$260,540.00
1.33	4" Thick Concrete Sidewalk	1,559	SY	\$106.47	\$165,986.73	\$140.13	\$218,462.67	\$95.00	\$148,105.00
1.34	4" Thick Concrete Sidewalk with Thickened Edge	444	SY	\$138.11	\$61,320.84	\$175.16	\$77,771.04	\$115.00	\$51,060.00
1.35	6" Thick Concrete Sidewalk	390	SY	\$138.24	\$53,913.60	\$128.00	\$49,920.00	\$118.00	\$46,020.00
1.36	Concrete Driveway Aprons	858	SY	\$120.60	\$103,474.80	\$128.00	\$109,824.00	\$125.00	\$107,250.00
1.37	Asphalt Parking Lot	1,452	SY	\$75.88	\$110,177.76	\$100.00	\$145,200.00	\$120.00	\$174,240.00
1.38	Concrete Parking Lot	454	SY	\$114.99	\$52,054.46	\$125.00	\$56,750.00	\$159.00	\$72,186.00
1.39	Concrete Retaining Wall	42	LF	\$504.73	\$21,198.66	\$300.00	\$12,600.00	\$667.00	\$28,014.00
1.40	Modular Block Retaining Wall	304	SF	\$123.76	\$37,623.04	\$160.00	\$48,640.00	\$76.00	\$23,104.00
1.41	Solid Sod	4,915	SY	\$4.70	\$23,100.50	\$9.17	\$45,070.55	\$7.00	\$34,405.00
1.42	Solid Sod (Zoysia)	260	SY	\$14.33	\$3,725.80	\$20.00	\$5,200.00	\$13.00	\$3,380.00
1.43	Additional Watering	52	MG	\$157.17	\$8,172.84	\$100.00	\$5,200.00	\$379.00	\$19,708.00
1.44	Remove and Replace Mailboxes	2	EA	\$453.00	\$906.00	\$519.00	\$1,038.00	\$517.00	\$1,034.00
1.45	4" Pavement Marking (Paint)	705	LF	\$3.40	\$2,397.00	\$3.89	\$2,742.45	\$4.00	\$2,820.00
1.46	6" Pavement Marking (Thermoplastic)	8,324	LF	\$1.64	\$13,651.36	\$1.88	\$15,649.12	\$2.00	\$16,648.00
1.47	12" Pavement Marking (Thermoplastic)	274	LF	\$7.93	\$2,172.82	\$9.08	\$2,487.92	\$9.00	\$2,466.00
1.48	24" Pavement Marking (Thermoplastic)	1,120	LF	\$16.99	\$19,028.80	\$19.46	\$21,795.20	\$19.00	\$21,280.00
1.49	Yield Lines (Thermoplastic)	9	LF	\$28.31	\$254.79	\$32.44	\$291.96	\$32.00	\$288.00
1.50	Pavement Symbols (Arrows - Thermoplastic)	17	EA	\$424.69	\$7,219.73	\$486.56	\$8,271.52	\$485.00	\$8,245.00
1.51	Pavement Symbols (ONLY - Thermoplastic)	6	EA	\$509.63	\$3,057.78	\$583.88	\$3,503.28	\$582.00	\$3,492.00
1.52	Pavement Symbols (Handicap Symbol - Thermoplastic)	1	EA	\$453.00	\$453.00	\$519.00	\$519.00	\$517.00	\$517.00
1.53	Pavement Symbols (Helmeted Bicyclist - Thermoplastic)	1	EA	\$368.00	\$368.00	\$421.69	\$421.69	\$420.00	\$420.00
1.54	Preformed Brick Pattern (Thermoplastic)	2,880	SF	\$22.65	\$65,232.00	\$25.95	\$74,736.00	\$26.00	\$74,880.00
1.55	Standard Street Sign Installation	9	EA	\$424.69	\$3,822.21	\$486.56	\$4,379.04	\$485.00	\$4,365.00
1.56	Erosion Control	1	LS	\$29,126.00	\$29,126.00	\$75,000.00	\$75,000.00	\$74,530.00	\$74,530.00
1.57	Traffic Control and Maintenance (Phase 1)	1	LS	\$208,823.00	\$208,823.00	\$78,361.04	\$78,361.04	\$70,919.00	\$70,919.00
1.58	Traffic Control and Maintenance (Phase 2)	1	LS	\$10,758.00	\$10,758.00	\$22,000.00	\$22,000.00	\$21,769.00	\$21,769.00
1.59	Traffic Control and Maintenance (Phase 3)	1	LS	\$5,662.00	\$5,662.00	\$12,000.00	\$12,000.00	\$14,313.00	\$14,313.00
1.60	Traffic Control and Maintenance (Phase 4)	1	LS	\$10,758.00	\$10,758.00	\$22,000.00	\$22,000.00	\$21,769.00	\$21,769.00
1.61	Portable Changeable Message Sign	412	Day	\$136.72	\$56,328.64	\$72.00	\$29,664.00	\$71.00	\$29,252.00
1.62	Aggregate Base for Roadway Maintenance	100	Ton	\$86.73	\$8,673.00	\$55.00	\$5,500.00	\$63.00	\$6,300.00
1.63	Handicap Ramp Concrete	148	SY	\$130.85	\$19,365.80	\$125.00	\$18,500.00	\$608.00	\$89,984.00
1.64	Project Signs	2	EA	\$1,104.00	\$2,208.00	\$1,800.00	\$3,600.00	\$1,261.00	\$2,522.00
1.65	Cold Milling Asphalt Pavement	17,254	SY	\$6.51	\$112,323.54	\$25.00	\$431,350.00	\$7.00	\$120,778.00
1.66	Tree Protection Fencing	1,200	LF	\$4.35	\$5,220.00	\$9.00	\$10,800.00	\$8.00	\$9,600.00
1.67	Portland Cement Concrete Base (6" U.T.)	51	SY	\$137.84	\$7,029.84	\$165.00	\$8,415.00	\$74.00	\$3,774.00
1.68	8" Thick Colored Concrete Crosswalk (Apple Red)	320	SY	\$223.14	\$71,404.80	\$145.00	\$46,400.00	\$190.00	\$60,800.00
1.69	6" Thick Stamped (Cobblestone) & Colored Concrete (Dark Granite)	145	SY	\$415.82	\$60,293.90	\$175.00	\$25,375.00	\$257.00	\$37,265.00
1.70	8" Thick Portland Cement Concrete Pavement	4	SY	\$193.09	\$772.36	\$145.00	\$580.00	\$142.00	\$568.00
1.71	4" Thick Colored Concrete (Dark Granite)	72	SY	\$402.00	\$28,944.00	\$129.00	\$9,288.00	\$177.00	\$12,744.00
1.72	Decorative Fence	795	LF	\$147.23	\$117,047.85	\$172.55	\$137,177.25	\$124.00	\$98,580.00
1.73	Decorative Fence (Custom)	460	LF	\$226.50	\$104,190.00	\$204.26	\$93,959.60	\$482.00	\$221,720.00
1.74	Drop Inlet Adjusted to Grade	5	EA	\$2,418.00	\$12,090.00	\$4,800.00	\$24,000.00	\$5,852.00	\$29,260.00

1.75	Junction Box Adjusted to Grade	1	EA	\$3,670.00	\$3,670.00	\$4,900.00	\$4,900.00	\$4,783.00	\$4,783.00
1.76	Gravity Block Retaining Wall	1,837	SF	\$92.32	\$169,591.84	\$156.00	\$286,572.00	\$115.00	\$211,255.00
1.77	Concrete Wheel Stop	5	EA	\$248.00	\$1,240.00	\$400.00	\$200.00	\$268.00	\$1,340.00
1.78	Detectable Warning Brick Paver	788	SF	\$48.64	\$38,328.32	\$135.00	\$106,380.00	\$31.00	\$24,428.00
1.79	Seal Coat	452	SY	\$10.19	\$4,605.88	\$52.00	\$23,504.00	\$18.00	\$8,136.00
1.80	System Local Controller TS2-Type 2, E-Net (8 Phases)	1	EA	\$46,998.00	\$46,998.00	\$58,984.35	\$58,984.35	\$52,300.00	\$52,300.00
1.81	Traffic Signal Controller (Modification)	14	EA	\$1,075.88	\$15,062.32	\$1,323.45	\$18,528.30	\$1,074.00	\$15,036.00
1.82	Ethernet Switch, T100 Hardened (8-Port)	1	EA	\$2,378.00	\$2,378.00	\$2,997.23	\$2,997.23	\$2,647.00	\$2,647.00
1.83	E-Net Cable (Exterior Cat 5E)	62	LF	\$3.40	\$210.80	\$3.89	\$241.18	\$4.00	\$248.00
1.84	Local Radio (E-Net 5.8) With Antenna	1	EA	\$1,359.00	\$1,359.00	\$1,686.75	\$1,686.75	\$1,512.00	\$1,512.00
1.85	Battery Backup System	2	EA	\$22,366.00	\$44,732.00	\$28,415.25	\$56,830.50	\$24,890.00	\$49,780.00
1.86	Traffic Signal Head, LED, (3 Section, 1 Way)	8	EA	\$1,642.00	\$13,136.00	\$2,063.03	\$16,504.24	\$1,827.00	\$14,616.00
1.87	Traffic Signal Head, LED, (4 Section, 1 Way)	5	EA	\$1,936.00	\$9,680.00	\$2,452.28	\$12,261.40	\$2,155.00	\$10,775.00
1.88	Central Control Unit	2	EA	\$7,021.00	\$14,042.00	\$8,887.88	\$17,775.76	\$7,814.00	\$15,628.00
1.89	Pole Mounted Assembly	16	EA	\$1,868.00	\$29,888.00	\$2,322.53	\$37,160.48	\$2,079.00	\$33,264.00
1.90	Countdown Pedestrian Signal Head, LED	16	EA	\$1,257.00	\$20,112.00	\$1,595.93	\$25,534.88	\$1,399.00	\$22,384.00
1.91	Traffic Signal Cable (5C/12 A.W.G.)	2,033	LF	\$4.53	\$9,209.49	\$5.19	\$10,551.27	\$5.00	\$10,165.00
1.92	Traffic Signal Cable (5C/14 A.W.G.)	1,651	LF	\$5.10	\$8,420.10	\$5.84	\$9,641.84	\$6.00	\$9,906.00
1.93	Traffic Signal Cable (7C/14 A.W.G.)	252	LF	\$7.93	\$1,998.36	\$9.08	\$2,288.16	\$9.00	\$2,268.00
1.94	Traffic Signal Cable (20C/14 A.W.G.)	776	LF	\$12.46	\$9,668.96	\$14.27	\$11,073.52	\$14.00	\$10,864.00
1.95	Electrical Conductors-In-Conduit (1C/8 A.W.G., E.G.C.)	1,336	LF	\$2.27	\$3,032.72	\$2.72	\$3,633.92	\$3.00	\$4,008.00
1.96	Electrical Conductors-In-Conduit (2C/6 A.W.G.)	87	LF	\$6.00	\$522.00	\$7.79	\$677.73	\$8.00	\$696.00
1.97	Galvanized Steel Conduit (2")	14	LF	\$62.14	\$869.96	\$73.96	\$1,035.44	\$69.00	\$966.00
1.98	Non-Metallic Conduit (2")	71	LF	\$31.13	\$2,210.23	\$40.76	\$2,894.96	\$35.00	\$2,485.00
1.99	Non-Metallic Conduit (3")	1,069	LF	\$47.57	\$50,852.33	\$63.56	\$67,945.64	\$53.00	\$56,657.00
1.100	Concrete Pull Box (Type 2)	7	EA	\$1,981.00	\$13,867.00	\$2,387.40	\$16,711.80	\$2,205.00	\$15,435.00
1.101	Concrete Pull Box (Type 1 HD)	1	EA	\$1,810.00	\$1,810.00	\$2,205.75	\$2,205.75	\$2,016.00	\$2,016.00
1.102	Concrete Pull Box (Type 2 HD)	4	EA	\$2,070.00	\$8,280.00	\$2,491.20	\$9,964.80	\$2,268.00	\$9,072.00
1.103	Traffic Signal Mast Arm And Pole With Foundation (50')	1	EA	\$46,998.00	\$46,998.00	\$57,998.25	\$57,998.25	\$52,300.00	\$52,300.00
1.104	Traffic Signal Pedestal Pole With Foundation	14	EA	\$5,060.00	\$70,840.00	\$6,137.18	\$85,920.52	\$5,545.00	\$77,630.00
1.105	Service Point Assembly (2 Circuits)	1	EA	\$6,850.00	\$6,850.00	\$8,485.65	\$8,485.65	\$7,624.00	\$7,624.00
1.106	Removal Of Traffic Signal Equipment	1	LS	\$8,490.00	\$8,490.00	\$9,731.25	\$9,731.25	\$9,452.00	\$9,452.00
1.107	18" Street Name Sign (Install Only)	1	EA	\$700.00	\$700.00	\$858.95	\$858.95	\$775.00	\$775.00
1.108	Video Cable	424	LF	\$2.88	\$1,221.12	\$3.57	\$1,513.68	\$3.00	\$1,272.00
1.109	Video Detector (IP)	4	LF	\$5,520.00	\$22,080.00	\$6,889.73	\$27,558.92	\$6,049.00	\$24,196.00
1.110	Video Cable (Exterior CAT 5E)	686	EA	\$3.45	\$2,366.70	\$3.89	\$2,668.54	\$4.00	\$2,744.00
1.111	Video Monitor (CLR)	1	EA	\$290.00	\$290.00	\$356.81	\$356.81	\$315.00	\$315.00
1.112	Central Control Unit (8 Channel)	1	EA	\$63,250.00	\$63,250.00	\$78,900.89	\$78,900.89	\$69,313.00	\$69,313.00
1.113	Adjust Water Valve to Grade	1	EA	\$860.00	\$860.00	\$1,044.91	\$1,044.91	\$775.00	\$775.00
1.114	Adjust Sanitary Sewer Manhole to Grade	8	EA	\$1,747.00	\$13,976.00	\$506.03	\$4,048.24	\$6,423.00	\$51,384.00
1.115	Remove, Salvage, and Reinstall Monument Sign	1	EA	\$10,833.00	\$10,833.00	\$15,000.00	\$15,000.00	\$8,646.00	\$8,646.00
1.116	Reinforced Concrete Wall System with Native Stone Veneer	460	LF	\$436.78	\$200,918.80	\$400.00	\$184,000.00	\$588.00	\$270,480.00
1.117	Benches, Installed	3	EA	\$3,183.00	\$9,549.00	\$1,100.00	\$3,300.00	\$3,425.00	\$10,275.00
1.118	Trash Receptacles, Installed	3	EA	\$3,577.00	\$10,731.00	\$5,500.00	\$16,500.00	\$3,702.00	\$11,106.00
1.119	Bus Shelters, Installed	1	EA	\$87,285.00	\$87,285.00	\$45,000.00	\$45,000.00	\$176,093.00	\$176,093.00
1.120	Placemaking Elements	2	EA	\$25,126.00	\$50,252.00	\$11,677.50	\$23,355.00	\$30,249.00	\$60,498.00
1.121	Precast Monument Base	6	EA	\$5,700.00	\$34,200.00	\$10,000.00	\$60,000.00	\$5,165.00	\$30,990.00
1.122	Trees	24	EA	\$497.00	\$11,928.00	\$2,200.00	\$52,800.00	\$6,942.00	\$166,608.00
1.123	Plantings	360	SF	\$20.10	\$7,236.00	\$100.00	\$36,000.00	\$83.00	\$29,880.00
1.124	Irrigation	1	LS	\$3,873.00	\$3,873.00	\$124,000.00	\$124,000.00	\$34,091.00	\$34,091.00
1.125	Street Lighting Assembly & Associated Hardware (Standard Foundation), Installed	8	EA	\$33,408.00	\$267,264.00	\$51,666.45	\$413,331.60	\$34,190.00	\$273,520.00
1.126	Street Lighting Assembly & Associated Hardware (Shallow Foundation), Installed	3	EA	\$34,088.00	\$102,264.00	\$59,594.18	\$178,782.54	\$37,342.00	\$112,026.00
1.127	Pedestrian Lighting Assembly & Associated Hardware (Standard Foundation), Installed	29	EA	\$13,306.00	\$385,874.00	\$20,747.03	\$601,663.87	\$18,275.00	\$529,975.00
1.128	Pedestrian Lighting Assembly & Associated Hardware (Shallow Foundation), Installed	9	EA	\$13,873.00	\$124,857.00	\$24,574.65	\$221,171.85	\$19,100.00	\$171,900.00
1.129	ACHM Pavement Permanent Repair	150	SY	\$304.00	\$45,600.00	\$180.00	\$27,000.00	\$276.00	\$41,400.00
1.130	Electrical Service Connection	1	LS	\$39,637.00	\$39,637.00	\$70,065.00	\$70,065.00	\$172,531.00	\$172,531.00
1.131	Irrigation and Landscape Repairs (Allowance)	1	LS	\$12,000.00	\$12,000.00	\$12,000.00	\$12,000.00	\$75,758.00	\$75,758.00
1.132	Concrete Steps	7	SY	\$667.00	\$4,669.00	\$450.00	\$3,150.00	\$7,050.00	\$49,350.00
1.133	Stockpiling and Testing of Excess Material	1	LS	\$27,730.00	\$27,730.00	\$40,000.00	\$40,000.00	\$29,279.00	\$29,279.00
1.134	Disposal of Hazardous Material	100	CY	\$51.746	\$5,174.60	\$1,100.00	\$110,000.00	\$184.00	\$18,400.00
1.135	Inlet/Junction Box Backopening	2	EA	\$2,500.00	\$5,000.00	\$3,750.00	\$7,500.00	\$4,523.00	\$9,046.00
PACKAGE B - WATER SCOPE					\$1,847,362.90		\$1,954,620.00		\$2,339,955.00
2.1	12-Inch DR-14 PVC C900 Water Main	3000	LF	\$104.42	\$313,260.00	\$95.00	\$285,000.00	\$126.00	\$378,000.00
2.2	8-Inch DR-14 PVC C900 Water Main	700	LF	\$90.60	\$63,420.00	\$85.00	\$59,500.00	\$118.00	\$82,600.00
2.3	6-Inch DIP CL350 Water Main	60	LF	\$84.94	\$5,096.40	\$75.00	\$4,500.00	\$105.00	\$6,300.00
2.4	4-Inch DR-14 PVC C900 Water Main	20	LF	\$73.61	\$1,472.20	\$65.00	\$1,300.00	\$85.00	\$1,700.00
2.5	2" SDR-7 HDPE Service Line	360	LF	\$50.96	\$18,345.60	\$45.00	\$16,200.00	\$75.00	\$27,000.00
2.6	1" CTS Coated Copper Tubing Service Line	200	LF	\$56.63	\$11,326.00	\$50.00	\$10,000.00	\$68.00	\$13,600.00
2.7	1" HDPE Service Line	625	LF	\$39.64	\$24,775.00	\$35.00	\$21,875.00	\$49.00	\$30,625.00
2.8	12"X12" Tapping Sleeve	1	EA	\$11,325.00	\$11,325.00	\$10,000.00	\$10,000.00	\$14,441.00	\$14,441.00
2.9	8"X8" Tapping Sleeve	4	EA	\$10,192.00	\$40,768.00	\$9,000.00	\$36,000.00	\$12,472.00	\$49,888.00
2.10	6"X6" Tapping Sleeve	1	EA	\$8,494.00	\$8,494.00	\$7,500.00	\$7,500.00	\$10,240.00	\$10,240.00
2.11	4"X4" Tapping Sleeve	1	EA	\$5,096.00	\$5,096.00	\$4,500.00	\$4,500.00	\$6,170.00	\$6,170.00
2.12	2"X2" Tapping Sleeve	2	EA	\$3,964.00	\$7,928.00	\$3,500.00	\$7,000.00	\$4,857.00	\$9,714.00
2.13	12"X2" Service Saddle and 2" Ball Valve w/Box	10	EA	\$2,378.00	\$23,780.00	\$2,100.00	\$21,000.00	\$3,019.00	\$30,190.00
2.14	8"X2" Service Saddle	1	EA	\$1,698.00	\$1,698.00	\$1,500.00	\$1,500.00	\$2,232.00	\$2,232.00
2.15	8"X1" Service Saddle	6	EA	\$1,245.75	\$7,474.50	\$1,100.00	\$6,600.00	\$1,575.00	\$9,450.00
2.16	12" Butterfly Valve w/Box	7	EA	\$14,722.00	\$103,054.00	\$13,000.00	\$91,000.00	\$17,723.00	\$124,061.00
2.17	12" Gate Valve	1	EA	\$9,626.00	\$9,626.00	\$8,500.00	\$8,500.00	\$11,487.00	\$11,487.00
2.18	8" Gate Valve w/Box	18	EA	\$7,361.00	\$132,498.00	\$6,500.00	\$117,000.00	\$8,861.00	\$159,498.00
2.19	6" Gate Valve w/Box	8	EA	\$6,228.00	\$49,824.00	\$5,500.00	\$44,000.00	\$7,549.00	\$60,392.00
2.20	4" Gate Valve w/Box	1	EA	\$5,096.00	\$5,096.00	\$4,500.00	\$4,500.00	\$6,236.00	\$6,236.00
2.21	2" Gate Valve w/Box	1	EA	\$3,963.00	\$3,963.00	\$3,500.00	\$3,500.00	\$4,792.00	\$4,792.00
2.22	16-Inch Min. Diameter Steel Encasement by Direct Bury	70	LF	\$509.63	\$35,674.10	\$450.00	\$31,500.00	\$617.00	\$43,190.00
2.23	Cut and Cap Existing Water Main	13	EA	\$3,964.00	\$51,532.00	\$3,500.00	\$45,000.00	\$4,989.00	\$64,857.00
2.24	Connect New Water Main To Existing Water Main	9	EA	\$5,379.00	\$48,411.00	\$4,750.00	\$42,750.00	\$6,564.00	\$59,076.00
2.25	Salvage Existing Fire Hydrant	1	EA	\$1,019.00	\$1,019.00	\$900.00	\$900.00	\$1,313.00	\$1,313.00
2.26	Abandon Existing Valve	9	EA	\$962.00	\$8,658.00	\$850.00	\$7,650.00	\$1,247.00	\$11,223.00
2.27	Abandon Existing Meter Setting and Service Line	18	EA	\$1,245.00	\$22,410.00	\$1,100.00	\$19,800.00	\$1,641.00	\$29,538.00
2.28	New Single Water Meter Setting	15	EA	\$3,964.00	\$59,460.00	\$3,500.00	\$52,500.00	\$4,989.00	\$74,835.00
2.29	Reconnect Existing Meter (Single)	2	EA	\$3,125.00	\$6,250.00	\$2,760.00	\$5,520.00	\$3,807.00	\$7,614.00
2.30	Reconnect Existing Meter (Double)	2	EA	\$3,510.00	\$7,020.00	\$3,100.00	\$6,200.00	\$4,332.00	\$8,664.00
2.31	Connect New Water Service Line to Existing Service Line	16	EA	\$2,038.00	\$32,608.00	\$1,800.00	\$28,800.00	\$2,560.00	\$40,960.00
2.32	Three-Way Fire Hydrant Assembly	7	EA	\$10,758.00	\$75,306.00	\$9,500.00	\$66,500.00	\$12,931.00	\$90,517.00
2.33	Ductile Iron Fittings	3750	LB	\$17.00	\$63,750.00	\$19.92	\$74,700.00	\$20.00	\$75,000.00
2.34	12" Anchor Collar	1	EA	\$5,322.00	\$5,322.00	\$4,700.00	\$4,700.00	\$9,846.00	\$9,846.00
2.35	8" Anchor Collar	4	EA	\$4,190.00	\$16,760.00	\$3,700.00	\$14,800.00	\$7,220.00	\$28,880.00
2.36	Temporary Asphalt Pavement Repair	2000	SY	\$53.22	\$106,440.00	\$165.00	\$330,000.00	\$42.00	\$84,000.00
2.37	Permanent Pavement Repair	350	SY	\$170.52	\$59,682.00	\$175.00	\$61,250.00	\$84.00	\$29,400.00
2.38	Full Depth Class 7 ABC Backfill	5000	LF	\$32.73	\$163,650.00	\$35.00	\$175,000.00	\$53.00	\$265,000.00
2.39	Flowable Fill To Fill Existing Water and Sewer Mains	3600	LF	\$33.98	\$122,328.00	\$35.00	\$126,000.00	\$53.00	\$190,800.00
2.40	8-Inch PVC SDR-26 PVC Sanitary Sewer	360	LF	\$96.26	\$34,653.60	\$85.00	\$30,600.00	\$118.00	\$42,480.00
2.41	6-Inch PVC SDR-26 PVC Sanitary Sewer	25	LF	\$84.94	\$2,123.50	\$75.00	\$1,875.00	\$105.00	\$2,625.00

2.42	Abandon Existing Manhole	2	EA	\$3,737.00	\$7,474.00	\$3,300.00	\$6,600.00	\$25,600.00	\$51,200.00
2.43	Remove Existing Manhole	3	EA	\$5,096.00	\$15,288.00	\$4,500.00	\$13,500.00	\$5,908.00	\$17,724.00
2.44	Cut and Plug Existing Sanitary Sewer	2	EA	\$3,114.00	\$6,228.00	\$2,750.00	\$5,500.00	\$3,610.00	\$7,220.00
2.45	4' Diameter Manhole with Standard Frame and Cover	2	EA	\$8,493.00	\$16,986.00	\$7,500.00	\$15,000.00	\$12,472.00	\$24,944.00
2.46	4' Diameter Drop Manhole with Standard Frame and Cover	2	EA	\$9,626.00	\$19,252.00	\$8,500.00	\$17,000.00	\$13,784.00	\$27,568.00
2.47	4' Diameter Flat-Top Manhole	1	EA	\$10,758.00	\$10,758.00	\$9,500.00	\$9,500.00	\$12,865.00	\$12,865.00
DEDUCTIVE ALTERNATE #1 - NOT USED				\$68,980.00		\$54,548.00		\$77,261.00	

*Corrected Calculation

* NOTICE: Bid award is contingent upon supplier meeting minimum specifications and formal authorization by City Officials.

 11/26/24
Kenny Fitch, Purchasing Agent

 11/26/24
Amanda Beilfuss, Sr. Purchasing Agent



2049 E. Joyce Blvd.
Suite 105
Fayetteville, AR 72703
TEL 479.527.9100
FAX 479.527.9101
www.GarverUSA.com

November 22, 2024

Matt Casey, PE
Engineering Design Manager
City of Fayetteville
113 W Mountain St.
Fayetteville, AR 72701

Re: City of Fayetteville
Bid 24-48, Construction – College Avenue Improvements (North to Sycamore)
ARDOT Job 040887
Recommendation of Award

Dear Matt:

Bids were received for the "North St. – Sycamore St. (College Ave.) (Fayetteville) (S) " project in the online bid interface at 2:00 p.m. on November 19, 2024. The bids have been checked for accuracy and for compliance with the contract documents.

A total of 3 bids were received on the project. Benchmark Construction Company of NWA, Inc. submitted the low bid for the project in the amount of \$8,624,654.49. The Engineer's Opinion of Probable Cost was \$10,245,000.00 for this project.

We recommend that the construction contract for "North St. – Sycamore St. (College Ave.) (Fayetteville) (S)" be awarded to Benchmark Construction Company of NWA, Inc. We believe that the award of this project to Benchmark Construction Company of NWA, Inc. represents the best value for the City.

Please call me if you have any questions.

Sincerely,

GARVER, LLC

Zach Moore, P.E.



OFFICE OF THE MAYOR

Mr. Jared D. Wiley
Chief Engineer – Preconstruction
Arkansas Department of Transportation
P.O. Box 2261
Little Rock, AR 72203

RE: Job #040887
North St. – Sycamore St. (College Ave.)
(Fayetteville)(S)
Washington County

Dear Mr. Wiley:

The following documents are submitted concerning the referenced project:

1. One set of bid tabulations.

I certify that the referenced project was advertised, and bids were received in accordance with the regulations governing Federal-aid projects and all other applicable state and federal regulations, and that his process has been reviewed and approved by the City of Fayetteville's Attorney. Additionally, I certify that the bid is being awarded to the lowest responsive and qualified bidder and that there has not been, nor will there be, any negotiations with the contractor or other bidders regarding the amount bid.

Your concurrence in the award of this contract to Benchmark Construction Company of NWA, Inc. for \$8,693,634.49 is requested.

Sincerely,

Mayor Lioneld Jordan

City Attorney Kit Williams



MEETING OF DECEMBER 17, 2024

TO: Mayor Jordan and City Council
THRU:
FROM: Mike Reynolds, Police Chief
SUBJECT: **2024 Police Department Donations**

RECOMMENDATION:

Staff recommends approval of a resolution and budget adjustment in the amount of \$148 for the acceptance of donations received by the Fayetteville Police Department.

BACKGROUND:

Periodically, businesses, organizations, and/or citizens will make monetary donations to the Police Department.

DISCUSSION:

Victoria Crance has made monthly donations for police recognition totaling \$148 in 2024. All donations were deposited into the City's General Fund and are tracked through the City's Project Accounting System. All purchases utilizing these funds must follow the City of Fayetteville Purchasing Policy.

BUDGET/STAFF IMPACT:

The budget impact will consist of an increase in expense budgets equal to the Police Department Donations received. There is no impact on staffing related to this agenda item.

ATTACHMENTS: SRF (#3), BA (#4), SRM (#5), PAR (#6)



City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8323

Legislation Text

File #: 2024-0882

2024 Police Department Donations

A RESOLUTION TO APPROVE A BUDGET ADJUSTMENT IN THE AMOUNT OF \$148.00
RECOGNIZING DONATION REVENUE TO THE FAYETTEVILLE POLICE DEPARTMENT

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE,
ARKANSAS:**

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment, a copy of which is attached to this Resolution, in the amount of \$148.00 recognizing donation revenue to the Fayetteville Police Department.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby expresses its sincere appreciation for the donations.

City of Fayetteville Staff Review Form

2024-0882

Item ID

12/17/2024

City Council Meeting Date - Agenda Item Only
N/A for Non-Agenda Item

Mike Reynolds

11/25/2024

POLICE (200)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Staff recommends approval of a resolution and budget adjustment in the amount of \$148 for the acceptance of donations received by the Fayetteville Police Department.

Budget Impact:

1010.200.2920-5329.00

General

Account Number

Fund

33044-6

Police Donations - Employee Recognition

Project Number

Project Title

Budgeted Item? Yes

Total Amended Budget

\$

698.00

Expenses (Actual+Encum)

\$

698.00

Available Budget

\$

-

Does item have a direct cost? No

Item Cost

\$

-

Is a Budget Adjustment attached? Yes

Budget Adjustment

\$

148.00

Remaining Budget

\$

148.00

V20221130

Purchase Order Number:

Previous Ordinance or Resolution #

Change Order Number:

Approval Date:

Original Contract Number:

Comments:

Budget Year	Division	Adjustment Number
2024	POLICE (200)	
	Requestor: Willie Newman	

Approval of a budget adjustment in the amount of \$148 for the acceptance of donations received by the Fayetteville Police Department.

	COUNCIL DATE:	12/17/2024
	ITEM ID#:	2024-882
	Holly Black	
	11/25/2024 11:19 AM	
	Budget Division	Date
	TYPE:	D - (City Council)
	JOURNAL #:	
	GLDATE:	
	CHKD/POSTED:	/
RESOLUTION/ORDINANCE		

[illegible]



CITY OF
FAYETTEVILLE
ARKANSAS

CITY COUNCIL MEMO

MEETING OF DECEMBER 17, 2024

TO: Mayor and City Council

FROM: Mike Reynolds, Chief of Police

A handwritten signature in black ink, appearing to read "Mike Reynolds".

DATE: November 25, 2024

SUBJECT: 2024 Police Department Donations

RECOMMENDATION:

Staff recommends approval of a resolution and budget adjustment in the amount of \$148 for the acceptance of donations received by the Fayetteville Police Department.

BACKGROUND:

Periodically, businesses, organizations, and/or citizens will make monetary donations to the Police Department.

DISCUSSION:

Victoria Crance has made monthly donations for police recognition totaling \$148 in 2024. All donations were deposited into the City's General Fund and are tracked through the City's Project Accounting System. All purchases utilizing these funds must follow the City of Fayetteville Purchasing Policy.

BUDGET/STAFF IMPACT:

The budget impact will consist of an increase in expense budgets equal to the Police Department Donations received. There is no impact on staffing related to this agenda item.

Attachments:

Budget Adjustment
Project Accounting Reports

Project Inquiry - 6 - Employee Recognition



General Budget to Actual

Project

Active

Status

Go Reset

Summary



33044.6 - Police Department Donations, Employee Recognition

Budget Method Fiscal Year Basis Status Active

Expenses

Original Budget	\$0.00
Budget Amendments - Posted	\$698.00
Budget Amendments - Unposted	\$0.00
Total Budget	\$698.00
Actual	\$698.00
Encumbrances	\$0.00
Unposted Transactions	\$0.00
Available Budget	\$0.00

Expenses & Revenue Graphs Show/Hide

Project Budget Analysis - Expenses

Project Budget Analysis - Revenue

Revenue

Original Budget	\$0.00
Budget Amendments - Posted	\$0.00
Budget Amendments - Unposted	\$0.00
Total Budget	\$0.00
Actual	\$148.00
Unposted Transactions	\$0.00
Available Budget	-\$148.00

Surplus/Deficit - Budget -\$698.00

Surplus/Deficit - Actual -\$550.00

- 13011 - Police Ballistic Protection Replacer
- 13028 - Police Employee Gym
- 14009 - Police Records Management System
- 15013 - Police Weapon Replacement
- 16007 - Police Marked Vehicle Expansion
- 17005 - Police K9 Replacement
- 19002 - Police Mobile Computer Terminal F
- 20002 - Central Dispatch Center Improvement
- 20004 - Police Radio Replacement
- 20019 - COVID-19 Disaster Recovery Fund
- 21002 - Cost Allocation Plan & User Fee Sh
- 21016 - Green Space Preservation
- 22001 - Police Firing Range Improvements
- 22003 - Library HVAC Replacement
- 22007 - Police Public Safety Equipment
- 23001 - Central Dispatch UPS Replacement
- 23005 - Lake Fayetteville Contractual Serv
- 24004 - Old PD Firing Range
- 31604 - Police - 4th DTF Byrne Grant
- 31605 - Police - 4th DTF State Drug Fund G
- 31607 - Police STEP Grant
- 32104 - Police Community Police Developm
- 32204 - Police - COPS Hiring Program Gran
- 32205 - Police - Law Enf Mental Health & W
- 32209 - Police - Dept of Public Safety Equip
- 33043 - DTF Law Enforcement State Forfeitu
- 33044 - Police Department Donations
- \$ 1 - Police Department Donations
- \$ 6 - Employee Recognition
- \$ R - Police Memorial

Unposted Activity

General

Contracts

From Date 01/01/2024 To Date 11/20/2024 Project 33044.6 - Police Department Donations, Employee Recognition Journal Type JE ☒ BA ☐ EA ☐

Transaction Date	Project Code	Project Journal	Journal Type	Subledger	Transaction Description	Debit	Credit	GL Account	Due To/Du
01/29/2024	33044.6	2024-00000723	Journal Entry	Revenue Accounting	TAL			1010.200.2920-4809.00	
02/01/2024	33044.6	2023-00011707	Journal Entry	Accounts Payable	A/P Invoice Entry	\$698.00		1010.200.2920-5329.00	
04/11/2024	33044.6	2024-00003231	Journal Entry	Revenue Accounting	LK			1010.200.2920-4809.00	
04/17/2024	33044.6	2024-00003387	Journal Entry	Revenue Accounting	TAL			1010.200.2920-4809.00	
06/03/2024	33044.6	2024-00004790	Journal Entry	Revenue Accounting	DS			1010.200.2920-4809.00	
07/10/2024	33044.6	2024-00006062	Journal Entry	Revenue Accounting	LK			1010.200.2920-4809.00	
08/14/2024	33044.6	2024-00007223	Journal Entry	Revenue Accounting	LK			1010.200.2920-4809.00	
10/21/2024	33044.6	2024-00009591	Journal Entry	Revenue Accounting	DS			1010.200.2920-4809.00	
10/21/2024	33044.6	2024-00009591	Journal Entry	Revenue Accounting	DS			1010.200.2920-4809.00	
11/15/2024	33044.6	2024-00010431	Journal Entry	Revenue Accounting	DS			1010.200.2920-4809.00	



MEETING OF DECEMBER 17, 2024

TO: Mayor Jordan and City Council
THRU:
FROM: Mike Reynolds, Police Chief
SUBJECT: **Budget Adjustment to Recognize State Forfeitures**

RECOMMENDATION:

Staff recommends the approval of a resolution and a budget adjustment of \$28,463 to recognize state forfeitures received through October 31, 2024.

BACKGROUND:

The Fayetteville Police Department receives forfeitures because of civil proceedings concerning currency or property seized during a criminal investigation. By policy of prosecution, civil proceedings of seized currency or property are adjudicated separately from the criminal case associated with seized assets, and civil proceedings of seizures follow the conviction of criminal charges unless a failure to appear or failure to answer occurs. Forfeitures received in the past are a direct result of the efforts of the officers assigned to the 4th Judicial District Drug Task Force (4th JDDTF), the local office of the Federal Drug Enforcement Administration (DEA), and the Financial Crimes Task Force of the Internal Revenue Service. By statute, federal and state forfeitures are to be spent for law enforcement purposes only and tracked within our project accounting system. All purchases utilizing these funds must follow the City of Fayetteville Purchasing Policy.

DISCUSSION:

Funds within this budget adjustment consist of state asset forfeiture funds resulting from civil proceedings of the 4th JDDTF. The 4th JDDTF received \$63,201 in state asset forfeitures since December 2023. The 4th JDDTF retains 15% of the state asset forfeitures received, while the remaining 85% is allocated to member agencies based on their assigned staffing within the task force. The requested budget adjustment consists of the following forfeitures: State asset forfeitures to the 4th JDDTF in the amount of \$9,481; and State asset forfeitures to the Fayetteville Police Department in the amount of \$18,982. All funds received through asset forfeitures have restricted use for law enforcement purposes only.

BUDGET/STAFF IMPACT:

The expense budget will increase equal to the revenue received. There is no staffing impact related to this budget adjustment.

ATTACHMENTS: SRF (#3), BA (#4), SRM (#5), PAR (#6)



City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8323

Legislation Text

File #: 2024-0881

Budget Adjustment to Recognize State Forfeitures

A RESOLUTION TO APPROVE A BUDGET ADJUSTMENT IN THE AMOUNT OF \$28,463.00 RECOGNIZING REVENUE ASSOCIATED WITH FEDERAL AND STATE LAW ENFORCEMENT FORFEITURES

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment, a copy of which is attached to this Resolution, in the amount of \$28,463.00 recognizing revenue associated with federal and state law enforcement forfeitures received from January 1, 2024 through October 31, 2024.

City of Fayetteville Staff Review Form

2024-0881

Item ID

12/17/2024

City Council Meeting Date - Agenda Item Only
N/A for Non-Agenda Item

Mike Reynolds

11/25/2024

POLICE (200)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Staff recommends the approval of a resolution and a budget adjustment of \$28,463 to recognize state forfeitures received through October 31, 2024.

Budget Impact:

Various

General / Drug Enforcement

Account Number

Fund

33043-1 / 33045-1

Police and DTF State Forfeitures

Project Number

Project Title

Budgeted Item? Yes

Total Amended Budget

\$ 220,151.00

Expenses (Actual+Encum)

\$ 7,524.62

Available Budget

\$ 212,626.38

Does item have a direct cost? No

Item Cost

\$ -

Is a Budget Adjustment attached? Yes

Budget Adjustment

\$ 28,463.00

Remaining Budget

\$ 241,089.38

V20221130

Purchase Order Number:

Previous Ordinance or Resolution #

Change Order Number:

Approval Date:

Original Contract Number:

Comments:

Budget Year	Division /Org2	Adjustment Number
2024	POLICE (200) Requestor: Willie Newman	

Recognize and establish revenue and expense budgets for state and federal forfeitures received through October 31, 2024.

	COUNCIL DATE:	12/17/2024
	ITEM ID#:	2024-881
	Holly Black	
	11/25/2024 1:41 PM	
	Budget Division	Date
	D - (City Council)	
	TYPE:	
JOURNAL #:		
GLDATE:		
CHKD/POSTED:	/	
RESOLUTION/ORDINANCE		

[illegible]



**CITY OF
FAYETTEVILLE
ARKANSAS**

CITY COUNCIL MEMO

MEETING OF DECEMBER 17, 2024

TO: Mayor and City Council
FROM: Mike Reynolds, Chief of Police

A handwritten signature in black ink, reading "Mike Reynolds".

DATE: November 25, 2024

SUBJECT: Budget Adjustment to Recognize State Forfeitures

RECOMMENDATION:

Staff recommends the approval of a resolution and a budget adjustment of \$28,463 to recognize state forfeitures received through October 31, 2024.

BACKGROUND:

The Fayetteville Police Department receives forfeitures because of civil proceedings concerning currency or property seized during a criminal investigation. By policy of prosecution, civil proceedings of seized currency or property are adjudicated separately from the criminal case associated with seized assets, and civil proceedings of seizures follow the conviction of criminal charges unless a failure to appear or failure to answer occurs. Forfeitures received in the past are a direct result of the efforts of the officers assigned to the 4th Judicial District Drug Task Force (4th JDDTF), the local office of the Federal Drug Enforcement Administration (DEA), and the Financial Crimes Task Force of the Internal Revenue Service. By statute, federal and state forfeitures are to be spent for law enforcement purposes only and tracked within our project accounting system. All purchases utilizing these funds must follow the City of Fayetteville Purchasing Policy.

DISCUSSION:

Funds within this budget adjustment consist of state asset forfeiture funds resulting from civil proceedings of the 4th JDDTF. The 4th JDDTF received \$63,201 in state asset forfeitures since December 2023. The 4th JDDTF retains 15% of the state asset forfeitures received, while the remaining 85% is allocated to member agencies based on their assigned staffing within the task force. The requested budget adjustment consists of the following forfeitures: State asset forfeitures to the 4th JDDTF in the amount of \$9,481; and State asset forfeitures to the Fayetteville Police Department in the amount of \$18,982. All funds received through asset forfeitures have restricted use for law enforcement purposes only.

BUDGET/STAFF IMPACT:

The expense budget will increase equal to the revenue received. There is no staffing impact related to this budget adjustment.

Attachments:

Budget Adjustment
Project Transaction Report

Project Inquiry - 33043 - DTF Law Enforcement State Forfeitures



Project
 Status

Go Reset

General Budget to Actual

Summary



Budget Method Fiscal Year Basis Status Active

Expenses

Original Budget	\$0.00
Budget Amendments - Posted	\$106,956.00
Budget Amendments - Unposted	\$0.00
Total Budget	\$106,956.00
Actual	\$1,773.00
Encumbrances	\$0.00
Unposted Transactions	\$0.00
Available Budget	\$105,183.00

Expenses & Revenue Graphs Show/Hide



Revenue

Original Budget	\$0.00
Budget Amendments - Posted	\$111,472.00
Budget Amendments - Unposted	\$0.00
Total Budget	\$111,472.00
Actual	\$9,480.08
Unposted Transactions	\$0.00
Available Budget	\$101,991.92



Net Difference

Surplus/Deficit - Budget \$4,516.00

Surplus/Deficit - Actual \$7,707.08

Unposted Activity

General

Contracts

- 24004 - Old PD Firing Range
- 31604 - Police - 4th DTF Byrne Grant
- 31605 - Police - 4th DTF State Drug Fund G
- 31607 - Police STEP Grant
- 32104 - Police Community Police Developn
- 32204 - Police - COPS Hiring Program Gran
- 32205 - Police - Law Enf Mental Health & W
- 32209 - Police - Dept of Public Safety Equip
- 33043 - DTF Law Enforcement State Forfeitures
- 1 - DTF Law Enforcement State Forfeitures
- 33044 - Police Department Donations
- 33045 - Police Law Enforcement State Forfeitures
- 33046 - Police Law Enforcement Fed Forfeitures
- 37042 - Police Bulletproof Vests Partnershi
- 38070 - Police High Intensity Drug Traffick
- 39022 - Police JAG Local Solicitation
- 39024 - Police IRS/Treasury Forfeitures
- 40901 - Outside Agencies Funding
- 41002 - Personnel Services Contra
- 42300 - IMPACT FUND (2300) FEE REVENUE
- 45120 - Bond Project Engineering Contra P
- 46090 - Police Projects (2019 Bonds)
- 52201 - Energy Loan (Solar Array) - A&P Co
- 57039 - Transfers Between Funds (Non-Pr
- 60000 - GovDeals
- 62401 - Police DTF - Prosecutor's Assoc Fu
- 65120 - Engineering Contra Timesheet Proj
- BDRPT - BUDGET REPORTING
- PABUD - Project Accounting Budget Adjust

Project Inquiry - 1 - PD Law Enforcement State Forfeitures



General Budget to Actual

Project

Summary

Go Reset

Budget Method Fiscal Year Basis Status Active

33045.1 - Police Law Enforcement State Forfeitures, PD Law Enforcement State Forfeitures

Expenses	Revenue	Net Difference
Original Budget \$0.00	Original Budget \$0.00	
Budget Amendments - Posted \$113,195.00	Budget Amendments - Posted \$16,535.00	
Budget Amendments - Unposted \$0.00	Budget Amendments - Unposted \$0.00	
Total Budget \$113,195.00	Total Budget \$16,535.00	Surplus/Deficit - Budget -\$96,660.00
Actual \$5,751.62	Actual \$18,981.68	Surplus/Deficit - Actual \$13,230.06
Encumbrances \$0.00		
Unposted Transactions \$0.00	Unposted Transactions \$0.00	0.00%
Available Budget \$107,443.38	Available Budget -\$2,446.68	-14.80%

Expenses & Revenue Graphs Show/Hide



Unposted Activity

General

Contracts

- 24000 - Lake Fayetteville Utility Fund
- 24004 - Old PD Firing Range
- 31604 - Police - 4th DTF Byrne Grant
- 31605 - Police - 4th DTF State Drug Fund G
- 31607 - Police STEP Grant
- 32104 - Police Community Police Develop
- 32204 - Police - COPS Hiring Program Gran
- 32205 - Police - Law Enf Mental Health & W
- 32209 - Police - Dept of Public Safety Equip
- 33043 - DTF Law Enforcement State Forfeir
- \$ 1 - DTF Law Enforcement State Forfeir
- 33044 - Police Department Donations
- 33045 - Police Law Enforcement State For
- \$ 1 - PD Law Enforcement State Forfeiture
- 7900 - Police HQ Building
- 33046 - Police Law Enforcement Fed Forfe
- \$ 1 - PD Law Enforcement Federal Forfeir
- 7900 - Police HQ Building
- 37042 - Police Bulletproof Vests Partnershi
- 38070 - Police High Intensity Drug Trafficki
- 39022 - Police JAG Local Solicitation
- 39024 - Police IRS/Treasury Forfeitures
- 40901 - Outside Agencies Funding
- 41002 - Personnel Services Contra
- 42300 - IMPACT FUND (2300) FEE REVENU
- 45120 - Bond Project Engineering Contra P
- 46090 - Police Projects (2019 Bonds)
- 52201 - Energy Loan (Solar Array) - A&P Co
- 57039 - Transfers Between Funds (Non-Pric
- 40000 - Debt Deal



MEETING OF DECEMBER 17, 2024

TO: Mayor Jordan and City Council
THRU: Chris Brown, Public Works Director
FROM: Alan Pugh, Staff Engineer
SUBJECT: **Adoption of Chapter 52, Stormwater Management and Water Quality Utility, of the City of Fayetteville Code or Ordinances establishing a Stormwater Management and Water Quality Fund.**

RECOMMENDATION:

Staff recommends adoption of Chapter 52, Stormwater Management and Water Quality Utility, of the City of Fayetteville Code or Ordinances establishing a Stormwater Management and Water Quality Fund

BACKGROUND:

Like many cities throughout the state and nation, the City of Fayetteville experiences issues with management of its stormwater utility system. These issues stem from many sources including, but not limited to, compliance with the mandated Municipal Separate Stormwater System (MS4) requirements, aging infrastructure, maintenance of system capacity, personnel to perform systematic inspections and the lack of formal drainage systems in many older areas of the City. To address these concerns, the City has historically funded the stormwater program through the Sales Tax Capital Improvement Program (CIP) and the Street Fund for capital and operational/maintenance functions, respectively. However, there are many needs within the City that require funding from these sources and, at least in recent years, the funding for stormwater has been inadequate to comprehensively address stormwater management within the City. To develop a comprehensive solution, additional funding is required for personnel and equipment as well as multiple capital projects, many of which will require more than \$1 million dollars for each project. Given the current levels, it would take many years to address just one of those projects.

In June 2018, the City Council recognized these needs and approved a consultant contract for a feasibility study (Resolution 131-18) and amended that agreement on two occasions (Resolutions 209-19 and 250-19) to provide additional investigation and details. That study was completed in August 2019 and updated in 2022 with more recent program costs, impervious area and associated fees. The Council also passed a resolution of intent to establish a stormwater utility in July 2022 (Resolution 157-22).

DISCUSSION:

The study recognized several areas that are currently underfunded, with the gap between the funding and actual costs to provide the services increasing every year. These needs include categories such as:

- operation and maintenance
- engineering and planning
- regulatory compliance

Mailing address:

113 W. Mountain Street
Fayetteville, AR 72701

www.fayetteville-ar.gov

- capital improvement projects

The costs associated with these categories were based on a level and extent of service agreed upon by council early in the program discussions as well as estimates of future regulatory compliance costs and expansion of the stormwater system as Fayetteville continues to grow. The costs associated with the recommended stormwater utility program can be found below.

Program Costs	Current Budget	Additional Needs	Total Program
Operation and Maintenance	\$998,441	\$1,508,000	\$2,506,441
Engineering and Planning	\$67,000	\$122,000	\$189,000
Regulatory Compliance	\$193,000	\$274,000	\$467,000
Stormwater CIP	\$200,000	\$913,400	\$1,113,400
Administrative	\$0	\$324,000	\$324,000
Total	\$1,458,441	\$3,141,400	\$4,599,841

In response to the completed study and the need to find a sustainable funding source for the stormwater management program, City staff has drafted Chapter 52, Stormwater Management and Water Quality Utility, for consideration by City Council. The proposed ordinance would establish an equitable funding source based on impervious areas, which can be directly correlated to the impact of any given property to the stormwater system. The fee is proposed to be billed to sewer users with the City limits in a tiered system. Properties with greater impervious areas would have a higher fee than smaller properties due to the increased impact to the system. If there are multiple sewer customers on a single property, the total impervious area would be allocated across those customers and the appropriate portion of the total fee billed to each customer.

The proposed fee would provide funding, in addition to that already being allocated from existing sources, to operate and maintain as well as improve and expand the stormwater system. The fee tiers are as shown below.

Tier	Tier Range (by square footage of impervious area on a property)	Billing Units	Initial Monthly Fee (\$1.35 per unit)
1	0≤2,000	1.25	\$1.69
2	>2,000 to ≤ 3,500	2.75	\$3.71
3	>3,500 to ≤ 5,000	4.25	\$5.73
4	>5,000 to ≤ 6,500	5.75	\$7.76
5	>6,500 to ≤ 8,000	7.25	\$9.79
6	>8,000	Per Calc	Billing Unit x Rate

This fee will close the existing funding gap and will fund a program to adequately manage stormwater within the City of Fayetteville. The proposed program presents a sustainable and equitable method of funding. Staff have worked closely with the City Attorney's office throughout the process and has modified the program to address the concerns that have been raised.

Staff have also worked to clarify the impact of this ordinance on the residents of Fayetteville. With the previous resolution of intent to implement the stormwater utility, the council also approved additional funding to complete the utility billing database and billing tool that would allow residents to search for their address and determine the proposed fee. This tool was made available on November 7, 2024, and the sanitary sewer account holders were notified by email if one was on file with the City or post card if no email was available.

Mailing address:

113 W. Mountain Street
Fayetteville, AR 72701

www.fayetteville-ar.gov

This process also allowed staff to take a closer look at the previously identified approximately 13% of the impervious area that was not previously allocated to a property with a sanitary sewer account. Each property was looked at individually during this process and the majority were able to be linked to an adjacent parcel. Currently, 7% of properties with impervious area have not been linked to a parcel with sanitary sewer service. These can be attributed to properties on the fringes of the City that may have a water service but be on septic, stand-alone parking areas and those properties that are exempted at the advice of the City Attorney.

BUDGET/STAFF IMPACT:

The proposal would initially generate approximately \$3 million in additional funding to be allocated to the Stormwater Management and Water Quality program.

ATTACHMENTS: SRF (#3), Exhibit A - Stormwater Management and Water Quality (#4), Letter of Support Stormwater Utility BWA (#5), Stormwater Article from Source (#6), IRWP Letter of Support Fayetteville Stormwater Utility (#7), Resolution of Intent to Enact Stormwater Fee – May 21, 2024 (#8), FYAC - Letter of Support (#9), City Attorney Memo 12-04-24 (#10), City Attorney Memo - Final Proposed Amendments to Exhibit A Stormwater Management Utility Fee Chapter (#11)



City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8323

Legislation Text

File #: 2024-0687

Adoption of Chapter 52, Stormwater Management and Water Quality Utility, of the City of Fayetteville Code or Ordinances establishing a Stormwater Management and Water Quality Fund.

AN ORDINANCE TO ENACT CHAPTER 52: STORMWATER MANAGEMENT UTILITY FEE INTO THE FAYETTEVILLE CODE OF ORDINANCES

WHEREAS, during the last two decades, the frequency and intensity of major rain storms striking Fayetteville has continued to increase dramatically; and

WHEREAS, the City of Fayetteville has worked diligently with our available revenues to improve and enhance our stormwater management facilities, but unfortunately flooding problems have continued as global warming has increased and created ever larger rain storms threatening to overwhelm our existing stormwater management facilities; and

WHEREAS, the City Council of Fayetteville has enacted improved stormwater management requirements for new developments, but yet even larger and continual investments into the City's stormwater management facilities are necessary to better handle the increasing rain storms that continue to intensify in number and in the amount of rainfall they deliver to Fayetteville; and

WHEREAS, state law now authorizes cities to enact Stormwater Management Utilities to equitability, fairly, and efficiently raise revenue needed to fund necessary stormwater management facilities to better protect citizens' homes, businesses, and institutions from the increasing dangers of flooding that we face now and which is likely to continue increasing in the future; and

WHEREAS, the proposed **Stormwater Management Utility Fee** Chapter has been carefully crafted to ensure it is fair and reasonable and bears a reasonable relationship to the benefits conferred on those paying for and receiving its services.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby determines and finds that **Chapter 52: Stormwater Management Utility Fee** with its **Sustainable Credit Framework** provision is fair and reasonable and bears a reasonable relationship to the benefits conferred on those paying for and receiving its services.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby enacts **Chapter 52:**

Stormwater Management Utility Fee into the *Fayetteville Code of Ordinances*.

City of Fayetteville Staff Review Form

2024-687

Item ID

11/19/2024

City Council Meeting Date - Agenda Item Only
N/A for Non-Agenda Item

Chris Brown

10/30/2024

ENGINEERING (621)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Adoption of Chapter 52, Stormwater Management and Water Quality Utility, of the City of Fayetteville Code or Ordinances establishing a Stormwater Management and Water Quality Fund.

Budget Impact:

Account Number

Fund

Project Number

Project Title

Budgeted Item? No

Total Amended Budget

\$ -

Expenses (Actual+Encum)

\$ -

Available Budget

\$ -

Does item have a direct cost? No

Item Cost

\$ -

Is a Budget Adjustment attached? No

Budget Adjustment

\$ -

Remaining Budget

\$ -

V20221130

Purchase Order Number:

Previous Ordinance or Resolution #

Change Order Number:

Approval Date:

Original Contract Number:

Comments:

EXHIBIT A

CHAPTER 52: STORMWATER MANAGEMENT UTILITY FEE

ARTICLE I – GENERAL PROVISIONS

52.01 - Purpose

The Stormwater Management Utility Fee is hereby established to create an equitable, efficient, and dedicated funding source for stormwater management services in the City of Fayetteville and provide for the safety, preserve the health and promote the prosperity of Fayetteville residents, businesses and institutions. The purposes for the Stormwater Management Fee further include:

- (A) To establish an equitable, fair, efficient and dedicated funding source for stormwater management services in the City of Fayetteville, Arkansas in addition to other taxpayer funds so that better long-range planning can be achieved.
- (B) To lessen or deter hazards to persons, property and the environment caused by increased runoff, obstructions to drainage and introduction of excessive silts, debris and pollutants into the drainage system, lakes, ponds, streams, rivers and other water bodies in the City of Fayetteville, and to otherwise promote the public health, safety and welfare of the public.
- (C) To fund the City's MS4 Stormwater Management Program for which it is expected to require a series of minimum control measures and report on their progress annually. In addition to new measures with each 5-year permit renewal, the City is projected to meet the population threshold of 100,000 by no later than 2030 and would be designated a medium MS4 community, triggering additional mandated activities.
- (D) To administer the National Flood Insurance Program and its Community Rating System which provides property owners with credits to reduce their flood insurance premiums,
- (E) To equitably and legally address drainage needs, also known as stormwater management, to protect public health, safety, and welfare and to reduce flooding on city streets thereby ensuring access of emergency vehicles to all properties within the City during flood events, by providing resources for construction, maintenance, and operation of stormwater facilities.
- (F) To implement additional watershed improvements of the City's waters in general, and specifically, that of Beaver Lake, the City's drinking water source, and the Illinois River.

52.02 - Definitions

The following definitions shall apply to this chapter:

Billing Unit shall mean the unit by which stormwater utility bills are calculated. A single billing unit shall be equal to 1,000 square feet of impervious area.

Customer shall mean all persons or entities to whom the Stormwater Management Utility Fee is properly billed. A customer is further defined as a person or an entity billed for sanitary sewer services within the City limits.

Credit shall mean a conditional, renewable reduction in the amount of the fee owed by a customer in accordance with the Sustainable Credit Framework.

EXHIBIT A

Public customer shall mean a local public agency including property of a school district within the City of Fayetteville.

Public Stormwater System shall mean all stormwater conveyance systems located within the City of Fayetteville right-of-way or public drainage easements. All other stormwater conveyance systems shall be considered Private Stormwater Systems.

Stormwater Management Utility Fee is the utility fee authorized by state law to provide necessary funds for a city to adequately address stormwater problems and needs through an equitable and fair utility fee derived from an expert analysis of the amount of impervious surface of each property which causes increased stormwater runoff that needs to be managed by the city to reduce or prevent flooding problems for our citizens and businesses.

52.03 - Applicability

- (A) The stormwater utility fee shall apply to all real property within the territorial jurisdiction of the City of Fayetteville for which sanitary sewer is provided by the City and upon which the City may constitutionally and legally assess such stormwater utility fee.
- (B) City-owned real property constituting the municipal drainage system, including public streets, public rights-of-way, drainage facilities, and related infrastructure is not served by a sanitary sewer and thus is not subject to a stormwater utility fee.
- (C) The requirements of this chapter do not relieve landowners, developers, other individuals, and entities from their responsibility for complying with the obligations of other portions of the Unified Development Code.

52.04—52.05 - Reserved

ARTICLE II – STORMWATER MANAGEMENT UTILITY FUND

52.06 - Establishment of a Stormwater Management Utility Fund

Pursuant to A.C.A. § 14-235-201 and other state law, the City of Fayetteville hereby creates a fund entitled the “Stormwater Management Utility Fund” for the purpose of segregating, identifying, and controlling revenues and expenses for operation of the City of Fayetteville Stormwater Management Program and other storm-related equipment, construction, materials, supplies or services attributable to these functions. The following revenue sources shall be deposited in said fund:

- (A) All revenue collected by or on behalf of the Stormwater Management Utility Fee.
- (B) Revenue from contributions in-lieu of onsite detention or from developers as contributions for required off-site drainage improvements, which may include bridge assessments.
- (C) Any interest earned on monies held in the Stormwater Management Utility Fund.
- (D) Any other revenue as may be determined appropriate by the City Council, including but not limited to general revenue, bond and grant proceeds.

These revenues shall be used exclusively for the purposes listed in Article I – General Provisions.

EXHIBIT A

52.07 – Authorization of a Stormwater Management Utility Fee

The Stormwater Management Utility Fee is a utility fee that is hereby authorized to be charged on most real property within the City of Fayetteville, Arkansas. The fee shall be billable to the City's Sewer Utility customers. The rate structure for the utility fee shall:

- (A) Be based on the square footage of impervious area on a property,
- (B) Be owner / customer type (residential, commercial, etc..)-neutral,
- (C) Use a billing unit of 1,000 square feet of impervious area,
- (D) Slot property within the following six-tier billing unit structure:

Tier	Tier Range (by square footage of impervious area on a property)	Billing Units	Initial Monthly Fee (Billing Unit times Billing Rate)
1	Less than 2,000	1.25	\$1.69
2	2,001 to 3,500	2.75	\$3.71
3	3,501 to 5,000	4.25	\$5.73
4	5,001 to 6,500	5.75	\$7.76
5	6,501 to 8,000	7.25	\$9.79
6	More than 8,000	See (F)	See (F)

- (E) For Tiers 1 through 5, the billing unit in the chart shall be multiplied by the billing rate per unit rounded down to the nearest cent.
- (F) For Tier 6, properties with impervious area greater than 8,000 square feet, the actual impervious area is divided by 1,000 and multiplied by the monthly rate per billing unit.
- (G) The initial rate per billing unit shall be \$1.35. This rate shall be increased by 3% per year beginning in the January 2026 billing period. No rates shall increase after 2031 without a further rate study.
- (H) Fees for sewer customers on properties with multiple sewer accounts shall be based on the individual sewer customer's percentage of total impervious area of the property or properties that may be attributed to the customer's account, included any areas of parking, common use areas, or other impervious area on the attributable properties.
- (I) Sewer customers or property owners may apply to have the fee for their property mitigated or reduced by the Sustainable Credit Framework.

52.08 – Initial Charge for the Stormwater Management Utility Fee

The initial assessment of the Stormwater Management Utility Fee established shall be charged beginning one year after the effective date of the ordinance.

52.09 – Level and Extent of Service Policies

The level of services funded by the Stormwater Management Utility Fees are dependent upon the amount of revenue generated by this Utility Fee, as well as possible general fund, sales tax bond, grants and other sources. These revenues shall fund the operation and maintenance, engineering and planning, regulatory compliance, stormwater capital improvements and administration of the City of Fayetteville's MS4 Program. The most recently adopted version of the City of Fayetteville Drainage Criteria Manual and Green Stormwater Practices will serve as the basis for the extent of stormwater service related to:

- (A) Public roads, public rights of way and public detention ponds(detention pond maintenance limited to activities necessary for proper functionality),

EXHIBIT A

- (B) Drainage features within existing dedicated public easements (excluding private commercial detention ponds).
- (C) These services extend to the downstream end of the first private infrastructure connected to the City of Fayetteville's drainage system.
- (D) Prior to City accepting responsibility for any private stormwater system, its owner must dedicate a drainage easement to the City of sufficient size as determined by the City to allow access to and work on the drainage facilities with appropriate equipment. The City Engineer shall determine the sufficiency of the width and extent of easements.

52.10 - Reserved

ARTICLE III – ADMINISTRATION

52.11 – Administration and Appeals

- (A) The City Engineer is responsible for the interpretation and administration of this chapter.
- (B) Owners may appeal the initial amount of the Stormwater Management Utility Fee credit allowed denial of exemption or other dispute to the City Engineer, who shall determine the validity of any such appeal. The City Engineer shall set forth the requirements of any such appeal in the Drainage Criteria Manual. The City Engineer shall report the amount of any requested credit to be allowed in writing to the appellant and maintain such record by the Engineering Department for at least one year.
- (C) After exhausting administrative means with the City Engineer, customers desiring to further appeal of an impervious area estimate, fee or credit can be heard by The City Water and Sewer Committee pursuant to Chapter 155: Appeals."

52.12 – Sustainable Credit Framework

- (A) A Sustainable Credit Framework will be established by the City Council that provides all Stormwater Management Utility customers with an opportunity to reduce their normal fees. Customers may qualify for renewable fee reductions by demonstrating activities or stormwater practices that increase the water quality and thereby reduce the water quality and quantity burden imposed on the City of Fayetteville's drainage system. Activities eligible for credit include the following:
 - (1) Compliance with an industrial stormwater permit.
 - (2) Public customers that establish contracts, or Interlocal Cooperation Agreements, with the City under § 25-20-104 will receive a credit recognizing the value of their public efforts to reduce stormwater runoff, in accordance with the terms of the interlocal agreement.
 - (3) Using shared parking lots to minimize the creation of new impervious area
 - (4) Property retrofits using Water Quality, Flood, and Tree Mitigation Measures from the Drainage Criteria Manual.
 - (5) Attendance at approved Stormwater Education Program and Stormwater Stewardship Activities.
 - (6) Demonstration of no direct discharge of stormwater.

EXHIBIT A

- (B) The final Sustainable Credit Framework, including appropriate application forms and instructions, will be developed and available to customers a minimum of 6 months in advance of the effective date of the initial collection of the Stormwater Management Utility Fee.

52.13 - Billing and collection

The Stormwater Management and Fee shall be administered and collected in the same manner as the City's sewer utility.

52.14—52.15 - Reserved



Becky Roark
Executive Director, Beaver Watershed Alliance
PO Box 762
Elkins, AR 72727
Becky@beaverwatershedalliance.org
479-305-9701

April 10, 2024

City of Fayetteville Council Members
113 West Mountain St.
Fayetteville, AR 72701

RE: Support for Stormwater Utility

Dear City of Fayetteville Council Members,

I am writing to express strong support for the implementation of a stormwater utility in Fayetteville and its positive impact on the Beaver Lake watershed. Beaver Watershed Alliance is a 501c3 nonprofit watershed group, formed in 2011, working to protect, enhance and sustain Beaver Lake and the integrity of its watershed. We work closely with the City of Fayetteville and residents to engage the public in conservation stewardship, work alongside city staff to install green infrastructure and have celebrated many success stories in water quality achievements over the past decade. However, with the growth outpacing the resources for water quality protection and restoration needs, we believe that this initiative is crucial for the future of water quality in the Town Branch watershed and West Fork watershed, which are major tributaries to Beaver Lake, and an additional safeguard to keep high-quality drinking water rates low for residents.

Increased urbanization and land development have led to a rise in stormwater runoff, which poses significant threats to water quality and ecosystem health. Pollution from sediment, nutrients, and contaminants can degrade water quality, harm aquatic life, and jeopardize public health. Sediments are costly to the drinking water utilities to remove and dispose.

By implementing a stormwater utility, Fayetteville can take proactive measures to mitigate the adverse effects of stormwater runoff and protect the integrity of the Beaver Lake watershed. The revenue generated from a stormwater utility fee could be invested in critical infrastructure projects, including green infrastructure, detention pond management, and erosion control measures, which help to reduce runoff volume and pollutant loads. Additionally, funding can support educational programs and outreach efforts to raise awareness about the importance of watershed stewardship and encourage sustainable practices among residents and businesses.

We urge you, as members of the City of Fayetteville Council, to consider the positive outcomes from the implementation of a stormwater utility as a critical step towards safeguarding the Beaver Lake watershed and ensuring a sustainable future for generations to come. Your leadership and commitment to environmental stewardship will not only benefit our community and watersheds today but leave a legacy of conservation and responsible resource management in our region.

Thank you for your attention to this matter, and we look forward to seeing the City of Fayetteville continue as a leader in stormwater management and water quality protection.

Sincerely,

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

Becky Roark
Executive Director
Beaver Watershed Alliance
becky@beaverwatershedalliance.org

The SOURCE

The Source is a quarterly publication of Beaver Water District

STORMWATER UTILITY MAKES SENSE

*By Dr. James A. McCarty,
Environmental Quality Manager*

In March of 2006, the first agreement was signed between the City of Fayetteville and Beaver Water District (BWD) for the protection of Beaver Lake. This particular agreement centered around potential changes to the discharge permit for the Noland Wastewater Plant and focused on efforts both the City and BWD would do to help reduce nonpoint source nutrients from entering our drinking water supply. That first agreement started what is now a long history of cooperation to protect Beaver Lake and includes two additional agreements. Several of our more notable successes stemming from our cooperation include: the continued efforts by the Noland Wastewater Plant to keep phosphorus concentrations in their effluent well below permitted values, multiple stream-restoration projects along the West Fork and White River with matching contributions from BWD and the City, cooperation on low impact development projects, and most recently, the joint purchase of 225 acres of floodplain property along the West Fork White River in southeast Fayetteville.

In 2018, the City let BWD know that they would be pursuing a study to look at the feasibility of forming a Stormwater Utility. The entire concept was unfamiliar to most people at the time, but the basics of the idea made sense; stormwater infrastructure and maintenance is underfunded, and with a backlog of projects contributing to flooding issues and water quality threats to Beaver Lake, a stormwater utility could help mitigate those issues.

As the study unfolded over the next couple of years and a framework for

how a stormwater utility could operate was defined, it became clear that this type of structure could significantly improve water quality. The landowners within the city each have a certain amount of impervious cover on their property which does not allow rainfall to soak in, leading to runoff. The runoff has to be accounted for within the city's stormwater infrastructure, to ensure that it flows properly and reduces flooding risk. This infrastructure is not just the traditional concrete infrastructure for stormwater management, hundreds of miles of pipe/drainage ways underneath the city that carry stormwater off



streets to local streams, it is also the city required stormwater detention, retention, and low impact development features in developments. The city would charge customers a rate based on the total impervious area of their land. This makes sense as the more impervious area one has, the higher the cost to the city to deal with the stormwater runoff from the property.

While most of the proposed funding would be slated for maintenance of existing infrastructure and addressing flooding issues after heavy rain, much of the activity would have a positive impact on water quality. When properly

functioning and maintained, concrete infrastructure, water retention/detention ponds, and low impact development features can all be effective at



reducing high flow during storm events and thus, reducing transport of sediments, nutrients, and chemicals to our drinking water supply. This summer, the Fayetteville City Council elected to continue funding updates to the original study and the development of an ordinance for the Stormwater Utility. It has been almost six years since BWD was first made aware of these efforts, and at times it has been a slow process, but now it feels like there is finally light at the end of the tunnel. Beaver Water District continues to support the efforts of the City of Fayetteville to protect Beaver Lake, and the District hopes that the example set by the new Stormwater Utility and other water quality efforts is followed by others. We have a strong history of collaboration and water quality protection to draw from and are looking forward to what comes next.

May 7, 2024

Dear Fayetteville City Council,

I am writing to express support of the Illinois River Watershed Partnership (IRWP) for the implementation of the stormwater utility fee as proposed by the city to support stormwater infrastructure maintenance, operations, water quality monitoring, and other stormwater infrastructure investment needs. Our region's water quality is increasingly impacted by land cover and land use changes, increasing precipitation, and inadequate stormwater management functionality. Addressing stormwater volume and quality has become increasingly crucial not only for our communities and the region's economy but also for our neighbors downstream.

City staff have dedicated many hours to researching the proposed stormwater utility fee, including consulting with IRWP and other partners, that aims to raise necessary funds dedicated to stormwater management, a vital tool for addressing stormwater impacts. Most of the City of Fayetteville's stormwater infrastructure is designed to manage floods. However, this stormwater utility will enable the city to maintain existing stormwater infrastructure, retrofit detention ponds, upgrade surface materials, stabilize streambanks, enhance riparian areas, and add vegetated strips and ditches, bioswales, and other proven best management practices. These types of investments are effective at managing stormwater by simultaneously protecting water quality and downstream property owners located throughout the City and on Clear Creek, Goose Creek, and other tributaries that convey stormwater away from Fayetteville. By developing a sustainable source of funds to invest in stormwater infrastructure, the city is also committing to progress toward meeting the Environmental Protection Agency (EPA) water quality standards, addressing flooding risks caused to downstream property owners and communities.

The City of Fayetteville added 464 acres of impervious area within city limits between 2018 and 2022. With these rates of growth, a modest 1-inch storm is resulting in approximately 5.6 million gallons of additional stormwater runoff in Fayetteville (Table 1).

Table 1: Gallons of Runoff in 1-inch Rain in Natural vs. Urbanized Land Cover

Evapotranspiration	Infiltration	Runoff
Natural Ground Cover		
40% (5,039,782.4)	50% (6,299,728)	10% (1,259,945.60)
Impervious Land Cover (75%-100%)		
30% (3,779,836.8)	15% (1,889,918.4)	55% (6,929,700.8)
-1,259,945.60 gallons	-4,409,809.60 gallons	+5,669,755.20 gallons

Note: 1 inch rain, 1 acre = 27,154 gallons, 464 acres x 27,154 gallons, 12,599,456 gallons of water.

By funding stormwater practices that improve evapotranspiration, infiltration, and reduce runoff, downstream flooding can be significantly reduced and water quality can be improved. Reductions in nutrients and pollutants can be achieved through the implementation of various green infrastructure BMPs. A summary of estimated reductions are below.

Table 2: Summary of Nutrient and Pollutant Reductions by BMP¹

Nutrient Reductions: Nitrogen (N): Green roofs: 50-60% Bioretention cells: 40-70% Vegetated swales: 20-70% Phosphorus (P): Green roofs: 50-60% Bioretention cells: 40-70% Vegetated filter strips: 30-90%	Pollutant Reductions: Sediment: Vegetated filter strips: 37-95% Permeable pavement: 60-90% Heavy Metals (e.g., copper, lead, zinc): Bioretention cells: 50-80% Infiltration trenches: 50-90% E. coli Wetland basin 64-86%
--	--

These estimates can vary depending on factors such as design, climate, soil conditions, and maintenance practices. However, green infrastructure BMPs consistently demonstrate significant reductions in nutrients and pollutants compared to traditional stormwater management techniques, making them valuable tools for improving water quality in urban areas.

We commend the city for thoroughly considering the equity in development of this fee. Currently, it is evident that the burden of stormwater falls disproportionately on lower-income residents who may lack the means to address stormwater issues on their properties. By establishing a stormwater utility fee, we can ensure that the costs are shared more fairly among all residents, thus promoting equity within our community.

Furthermore, we commend the efforts to implement a modest annual increase to the fee. This approach provides stability while allowing for adjustments to keep pace with evolving needs and inflation.

I also want to emphasize the potential for partnerships in addressing stormwater management with the many robust conservation organizations servicing Fayetteville. Since a credit system for reduction of impervious surface area is outlined, there are ways IRWP, the city, and others can work together to decrease runoff, educate citizens, and achieve other benefits like ecosystem services, cultural heritage perpetuation, add social infrastructure, and increase biodiversity and resilience in the urban landscape. By involving property owners and developers, we can collectively work towards reducing impervious surface areas where unnecessary and implement green infrastructure solutions that enhance community benefits, reduce heat island effects, and improve surface and groundwater quality. Initiatives such as loan programs for low or no-interest stormwater funds can incentivize developers to incorporate low-impact practices into their projects, reducing maintenance costs and benefiting both the environment and the community. Homeowners can take advantage of educational opportunities

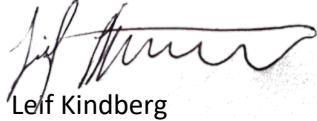
¹Sources: International Stormwater BMP Database: 2020 Summary Statistics; Minnesota Stormwater Manual, Median pollutant removal percentages for several BMPs; Barnstable/Yarmouth, United States Environmental Protection Agency (EPA), Nitrogen-reducing Green Infrastructure in Environmental Justice Communities; Abimbola, O. et al, (2021), Modeling and Prioritizing Interventions Using Pollution Hotspots for Reducing Nutrients, Atrazine and E. coli Concentrations in a Watershed; and other sources.

and cost-share programs through IRWP and other partners to install practices that qualify for credit. Program opportunities, for example, like through a partnership with the Arkansas Department of Agriculture - Natural Resources Division utilizing Clean Water State Revolving Funds.

In conclusion, I urge the Fayetteville City Council to move forward with the implementation of a stormwater utility fee. As with Hot Springs, it will take a few years to implement and begin realizing the benefits to residents. However, there are many deferred stormwater projects that need to be addressed before the next rainfall. By taking proactive steps now, the city can better protect our community, enhance quality of life, and sustainably manage stormwater for the benefit of all.

Thank you for considering our perspective on this important matter.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Leif Kindberg', with a stylized, flowing script.

Leif Kindberg

Executive Director

Illinois River Watershed Partnership (IRWP)

Ph. 479.422.5676

leif@irwp.org



113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8323

Resolution: 143-24

File Number: 2024-1836

INTENT TO ENACT STORMWATER UTILITY FEE (RESOLUTION OF INTENT):

A RESOLUTION OF INTENT TO ENACT A STORMWATER UTILITY ORDINANCE AND ESTABLISH A STORMWATER MANAGEMENT AND WATER QUALITY FUND, AUTHORIZE ADDITIONAL SERVICES RELATED TO IMPLEMENTATION AND PUBLIC OUTREACH, AND TO APPROVE A BUDGET ADJUSTMENT

WHEREAS, the Engineering Division, the City Council Stormwater Committee, and the City Council Water & Sewer Committee have studied our community's growing need to improve our stormwater management services; and

WHEREAS, with the help of a professional consultant with extensive experience in creating Stormwater Utilities supported by appropriate and fair utility fees, these City Council committees and Engineering staff have devised the fairest Stormwater Management Utility Fee possible and recommend this ordinance to the full City Council for passage; and

WHEREAS, the City Council has determined that the Stormwater Utility Fee is necessary to equitably and efficiently fund stormwater management services in order to provide for the safety, preserve the health, and promote the prosperity of Fayetteville residents, businesses, and institutions; and

WHEREAS, the City Council also agrees with and adopts all the purposes explained in § 52.01 – **Purpose** of the proposed new code section; and

WHEREAS, additional services authorized with this resolution of intent include development of the billing database and billing tool that would allow property owners and residents to view their proposed fee as a portion of the continued public outreach efforts, which could include engaging a consultant or additional temporary staff.

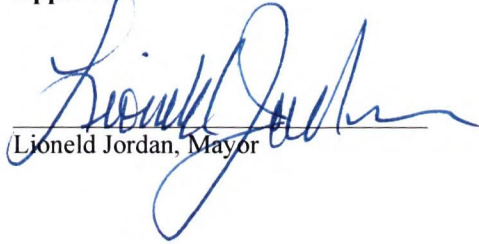
NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby expresses its intent to enact **Chapter 52 Stormwater Management Utility Fee** as shown in Exhibit A attached hereto and made a part hereof.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment, a copy of which is attached to this Resolution, to appropriate funds for additional services including development of the billing database and a billing tool to allow property owners and residents to view their proposed fees.

PASSED and APPROVED on May 21, 2024

Approved:


Lioneld Jordan, Mayor

Attest:


Kara Paxton, City Clerk Treasurer





MEETING OF MAY 21, 2024

TO: Mayor Jordan and City Council

THRU: Chris Brown, Public Works Director

FROM: Alan Pugh, Staff Engineer

SUBJECT: **Approval of a resolution of intent to adopt Chapter 52, Stormwater Management and Water Quality Utility, of the City of Fayetteville Code or Ordinances establishing a Stormwater Management and Water Quality Fund, authorization to perform additional services and approval of a budget adjustment**

RECOMMENDATION:

Staff recommends approval of a resolution of intent to adopt Chapter 52, Stormwater Management and Water Quality Utility, of the City of Fayetteville Code or Ordinances establishing a Stormwater Management and Water Quality Fund, authorization to perform additional services and approval of a budget adjustment.

BACKGROUND:

Like many cities throughout the state and nation, the City of Fayetteville experiences issues with management of its stormwater utility system. These issues stem from many sources including, but not limited to, compliance with the mandated Municipal Separate Stormwater System (MS4) requirements, aging infrastructure, maintenance of system capacity, personnel to perform systematic inspections and the lack of formal drainage systems in many older areas of the City. To address these concerns, the City has historically funded the stormwater program through the Sales Tax Capital Improvement Program (CIP) and the Street Fund for capital and operational/maintenance functions, respectively. However, there are many needs within the City that require funding from these sources and, at least in recent years, the funding for stormwater has been inadequate to comprehensively address stormwater management within the City. To develop a comprehensive solution, additional funding is required for personnel and equipment as well as multiple capital projects, many of which will require more than \$1 million dollars for each project. Given the current levels, it would take many years to address just one of those projects.

In June, 2018, the City Council recognized these needs and approved with a consultant contract for a feasibility study (Resolution 131-18) and amended that agreement on two occasions (Resolutions 209-19 and 250-19) to provide additional investigation and details. That study was completed in August of 2019 and updated in 2022 with more recent program costs, impervious area and associated fees. The Council also passed a resolution of intent to establish a stormwater utility in July of 2022 (Resolution 157-22)

DISCUSSION:

The study recognized several areas that are currently underfunded, with the gap between the funding and actual costs to provide the services increasing every year. These needs include categories such as:

- Operation and Maintenance
- Engineering and Planning

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Fayetteville, AR 72701

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- Regulatory Compliance
- Capital Improvement Projects

The costs associated with these categories were based on a level and extent of service agreed upon by council early in the program discussions as well as estimates of future regulatory compliance costs and expansion of the stormwater system as Fayetteville continues to grow. The costs associated with the recommended stormwater utility program can be found below.

Program Costs	Current Budget	Additional Needs	Total Program
Operation and Maintenance	\$998,441	\$1,508,000	\$2,506,441
Engineering and Planning	\$67,000	\$122,000	\$189,000
Regulatory Compliance	\$193,000	\$274,000	\$467,000
Stormwater CIP	\$200,000	\$913,400	\$1,113,400
Administrative	\$0	\$324,000	\$324,000
Total	\$1,458,441	\$3,141,400	\$4,599,841

In response to the completed study and the need to find a sustainable funding source for the stormwater management program, City staff has drafted Chapter 52, Stormwater Management and Water Quality Utility, for consideration by City Council. The proposed ordinance would establish an equitable funding source based on impervious areas, which can be directly correlated to the impact of any given property to the stormwater system. The fee is proposed to be billed to sewer users with the City limits in a tiered system. Properties with greater impervious areas would have a higher fee than smaller properties due to the increased impact to the system. If there are multiple sewer customers on a single property, the total impervious area would be allocated between those customers and the appropriate portion of the total fee billed to each customer.

Staff have worked closely with the City Attorney's office throughout the process and has modified the program to address the concerns that have been raised. The City Attorney has expressed concern over the legality of billing federal, state and county governments, and recommended that they be exempted.

Staff has included a revised monthly fee that reflects this recommendation. The monthly fee is estimated to go to \$1.35 per billing unit with those exemptions, which is a slight increase from the \$1.30 per billing unit discussed previously. That change is reflected in the table below and in the attached draft of Chapter 52.

The proposed fee would provide funding, in addition to that already being allocated from existing sources, to operate and maintain as well as improve and expand the stormwater system. The fee tiers are as shown below.

Tier	Tier Range (by square footage of impervious area on a property)	Billing Units	Initial Monthly Fee (\$1.35 per unit)
1	0≤2,000	1.25	\$1.69

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2	>2,000 to ≤ 3,500	2.75	\$3.71
3	>3,500 to ≤ 5,000	4.25	\$5.73
4	>5,000 to ≤ 6,500	5.75	\$7.76
5	>6,500 to ≤ 8,000	7.25	\$9.79
6	>8,000	Per Calc	Billing Unit x Rate

This fee will close the existing funding gap and will fully fund a program to adequately manage stormwater within the City of Fayetteville. The proposed program presents a sustainable and equitable method of funding.

The additional services authorized with this proposal would include development of the billing database and billing tool that would allow property owners and residents to view their proposed fee as a portion of the continued public outreach efforts. This could include engaging a consultant and/or additional temporary staff. If a consultant is engaged, the contract for the services will be brought back to the council. However, council would be authorizing and to authorize the addition of up to 3.0 temporary full-time equivalent positions for the GIS and utility financial services to backfill existing employees related with the implementation of a Stormwater Utility with this resolution.

This would bring the City one step closer to implementing the program. The anticipated schedule moving forward would be for the billing tool to be available to the public by October of this year and for the council to consider the ordinance adopting the program prior to the end of the year with the goal of the fee being included on sanitary sewer bills by August of 2025. Additional funding is anticipated to be necessary at the time of adoption of Chapter 52 for aerial imagery and impervious data in order to establish the baseline of impervious area for the program.

BUDGET/STAFF IMPACT:

The proposal would initially generate approximately \$3 million in additional funding to be allocated to the Stormwater Management and Water Quality program.

ATTACHMENTS: SRF (#3), BA (#4), Exhibit A - Stormwater Management and Water Quality - Final Draft (#5), 2024-4 Letter of Support_Stormwater Utility_BWA (#6)

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Fayetteville, AR 72701

www.fayetteville-ar.gov



City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8323

Legislation Text

File #: 2024-1836

Approval of a resolution of intent to adopt Chapter 52, Stormwater Management and Water Quality Utility, of the City of Fayetteville Code or Ordinances establishing a Stormwater Management and Water Quality Fund, authorization to perform additional services and approval of a budget adjustment

A RESOLUTION OF INTENT TO ENACT A STORMWATER UTILITY ORDINANCE AND ESTABLISH A STORMWATER MANAGEMENT AND WATER QUALITY FUND, AUTHORIZE ADDITIONAL SERVICES RELATED TO IMPLEMENTATION AND PUBLIC OUTREACH, AND TO APPROVE A BUDGET ADJUSTMENT

WHEREAS, the Engineering Division, the City Council Stormwater Committee, and the City Council Water & Sewer Committee have studied our community's growing need to improve our stormwater management services; and

WHEREAS, with the help of a professional consultant with extensive experience in creating Stormwater Utilities supported by appropriate and fair utility fees, these City Council committees and Engineering staff have devised the fairest Stormwater Management Utility Fee possible and recommend this ordinance to the full City Council for passage; and

WHEREAS, the City Council has determined that the Stormwater Utility Fee is necessary to equitably and efficiently fund stormwater management services in order to provide for the safety, preserve the health, and promote the prosperity of Fayetteville residents, businesses, and institutions; and

WHEREAS, the City Council also agrees with and adopts all the purposes explained in § 52.01 – **Purpose** of the proposed new code section; and

WHEREAS, additional services authorized with this resolution of intent include development of the billing database and billing tool that would allow property owners and residents to view their proposed fee as a portion of the continued public outreach efforts, which could include engaging a consultant or additional temporary staff.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby expresses its intent to enact **Chapter 52 Stormwater Management Utility Fee** as shown in Exhibit A attached hereto and made a part hereof.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment, a copy of which is attached to this Resolution, to appropriate funds for additional services including development of the billing database and a billing tool to allow property owners and residents to view their proposed fees.

City of Fayetteville Staff Review Form

2024-1836

Item ID

5/21/2024

City Council Meeting Date - Agenda Item Only
N/A for Non-Agenda Item

Chris Brown

5/2/2024

ENGINEERING (621)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Approval of a resolution of intent to adopt Chapter 52, Stormwater Management and Water Quality Utility, of the City of Fayetteville Code or Ordinances establishing a Stormwater Management and Water Quality Fund, authorization to perform additional services and approval of a budget adjustment

Budget Impact:

1010.090.6600-5314.00

General Fund

Account Number

Fund

17008.1

Stormwater Feasability Study

Project Number

Project Title

Budgeted Item? Yes

Total Amended Budget

\$ 52,685.00

Expenses (Actual+Encum)

\$ 52,684.64

Available Budget

\$ 0.36

Does item have a direct cost? No

Item Cost

\$ -

Is a Budget Adjustment attached? Yes

Budget Adjustment

\$ 150,000.00

Remaining Budget

\$ 150,000.36

V20221130

Purchase Order Number:

Previous Ordinance or Resolution # 131-18, 209-19,
250-19, 157-22

Change Order Number:

Approval Date:

Original Contract Number:

Comments:

Budget Year	Division	Adjustment Number
2024	ENGINEERING (621)	
	Requestor: Chris Brown	

Approval of a resolution of intent to adopt of Chapter 52, Stormwater Management and Water Quality Utility, of the City of Fayetteville Code or Ordinances establishing a Stormwater Management and Water Quality Fund, authorization to perform additional services and approval of a budget adjustment

	COUNCIL DATE:	5/21/2024
	ITEM ID#:	2024-1836
	Holly Black	
	5/3/2024 11:11 AM	
	Budget Division	Date
	D - (City Council)	
TYPE:		
JOURNAL #:		
GLDATE:		
CHKD/POSTED:	/	
RESOLUTION/ORDINANCE		

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EXHIBIT A

CHAPTER 52: STORMWATER MANAGEMENT UTILITY FEE

ARTICLE I – GENERAL PROVISIONS

52.01 - Purpose

The Stormwater Management Utility Fee is hereby established to create an equitable, efficient, and dedicated funding source for stormwater management services in the City of Fayetteville and provide for the safety, preserve the health and promote the prosperity of Fayetteville residents, businesses and institutions. The purposes for the Stormwater Management Fee further include:

- (A) To establish an equitable, fair, efficient and dedicated funding source for stormwater management services in the City of Fayetteville, Arkansas in addition to other taxpayer funds so that better long-range planning can be achieved.
- (B) To lessen or deter hazards to persons, property and the environment caused by increased runoff, obstructions to drainage and introduction of excessive silts, debris and pollutants into the drainage system, lakes, ponds, streams, rivers and other water bodies in the City of Fayetteville, and to otherwise promote the public health, safety and welfare of the public.
- (C) To fund the City's MS4 Stormwater Management Program for which it is expected to require a series of minimum control measures and report on their progress annually. In addition to new measures with each 5-year permit renewal, the City is projected to meet the population threshold of 100,000 by no later than 2030 and would be designated a medium MS4 community, triggering additional mandated activities.
- (D) To administer the National Flood Insurance Program and its Community Rating System which provides property owners with credits to reduce their flood insurance premiums,
- (E) To equitably and legally address drainage needs, also known as stormwater management, to protect public health, safety, and welfare and to reduce flooding on city streets thereby ensuring access of emergency vehicles to all properties within the City during flood events, by providing resources for construction, maintenance, and operation of stormwater facilities.
- (F) To implement additional watershed improvements of the City's waters in general, and specifically, that of Beaver Lake, the City's drinking water source, and the Illinois River.

52.02 - Definitions

The following definitions shall apply to this chapter:

Billing Unit shall mean the unit by which stormwater utility bills are calculated. A single billing unit shall be equal to 1,000 square feet of impervious area.

Customer shall mean all persons or entities to whom the Stormwater Management Utility Fee is properly billed. A customer is further defined as a person or an entity billed for sanitary sewer services within the City limits.

Credit shall mean a conditional, renewable reduction in the amount of the fee owed by a customer in accordance with the Sustainable Credit Framework.

EXHIBIT A

Public customer shall mean a local public agency including property of a school district within the City of Fayetteville.

Public Stormwater System shall mean all stormwater conveyance systems located within the City of Fayetteville right-of-way or public drainage easements. All other stormwater conveyance systems shall be considered Private Stormwater Systems.

Stormwater Management Utility Fee is the utility fee authorized by state law to provide necessary funds for a city to adequately address stormwater problems and needs through an equitable and fair utility fee derived from an expert analysis of the amount of impervious surface of each property which causes increased stormwater runoff that needs to be managed by the city to reduce or prevent flooding problems for our citizens and businesses.

52.03 - Applicability

- (A) The stormwater utility fee shall apply to all real property within the territorial jurisdiction of the City of Fayetteville for which sanitary sewer is provided by the City and upon which the City may constitutionally and legally assess such stormwater utility fee.
- (B) City-owned real property constituting the municipal drainage system, including public streets, public rights-of-way, drainage facilities, and related infrastructure is not served by a sanitary sewer and thus is not subject to a stormwater utility fee.
- (C) The requirements of this chapter do not relieve landowners, developers, other individuals, and entities from their responsibility for complying with the obligations of other portions of the Unified Development Code.

52.04—52.05 - Reserved

ARTICLE II – STORMWATER MANAGEMENT UTILITY FUND

52.06 - Establishment of a Stormwater Management Utility Fund

Pursuant to A.C.A. § 14-235-201 and other state law, the City of Fayetteville hereby creates a fund entitled the “Stormwater Management Utility Fund” for the purpose of segregating, identifying, and controlling revenues and expenses for operation of the City of Fayetteville Stormwater Management Program and other storm-related equipment, construction, materials, supplies or services attributable to these functions. The following revenue sources shall be deposited in said fund:

- (A) All revenue collected by or on behalf of the Stormwater Management Utility Fee.
- (B) Revenue from contributions in-lieu of onsite detention or from developers as contributions for required off-site drainage improvements, which may include bridge assessments.
- (C) Any interest earned on monies held in the Stormwater Management Utility Fund.
- (D) Any other revenue as may be determined appropriate by the City Council, including but not limited to general revenue, bond and grant proceeds.

These revenues shall be used exclusively for the purposes listed in Article I – General Provisions.

EXHIBIT A

52.07 – Authorization of a Stormwater Management Utility Fee

The Stormwater Management Utility Fee is a utility fee that is hereby authorized to be charged on most real property within the City of Fayetteville, Arkansas. The fee shall be billable to the City's Sewer Utility customers. The rate structure for the utility fee shall:

- (A) Be based on the square footage of impervious area on a property,
- (B) Be owner / customer type (residential, commercial, etc..)-neutral,
- (C) Use a billing unit of 1,000 square feet of impervious area,
- (D) Slot property within the following six-tier billing unit structure:

Tier	Tier Range (by square footage of impervious area on a property)	Billing Units	Initial Monthly Fee (Billing Unit times Billing Rate)
1	Less than 2,000	1.25	\$1.69
2	2,001 to 3,500	2.75	\$3.71
3	3,501 to 5,000	4.25	\$5.73
4	5,001 to 6,500	5.75	\$7.76
5	6,501 to 8,000	7.25	\$9.79
6	More than 8,000	See (F)	See (F)

- (E) For Tiers 1 through 5, the billing unit in the chart shall be multiplied by the billing rate per unit rounded down to the nearest cent.
- (F) For Tier 6, properties with impervious area greater than 8,000 square feet, the actual impervious area is divided by 1,000 and multiplied by the monthly rate per billing unit.
- (G) The initial rate per billing unit shall be \$1.35. This rate shall be increased by 3% per year beginning in the January 2026 billing period. No rates shall increase after 2031 without a further rate study.
- (H) Fees for sewer customers on properties with multiple sewer accounts shall be based on the individual sewer customer's percentage of total impervious area of the property or properties that may be attributed to the customer's account, included any areas of parking, common use areas, or other impervious area on the attributable properties.
- (I) Sewer customers or property owners may apply to have the fee for their property mitigated or reduced by the Sustainable Credit Framework.

52.08 – Initial Charge for the Stormwater Management Utility Fee

The initial assessment of the Stormwater Management Utility Fee established shall be charged beginning one year after the effective date of the ordinance.

52.09 – Level and Extent of Service Policies

The level of services funded by the Stormwater Management Utility Fees are dependent upon the amount of revenue generated by this Utility Fee, as well as possible general fund, sales tax bond, grants and other sources. These revenues shall fund the operation and maintenance, engineering and planning, regulatory compliance, stormwater capital improvements and administration of the City of Fayetteville's MS4 Program. The most recently adopted version of the City of Fayetteville Drainage Criteria Manual and Green Stormwater Practices will serve as the basis for the extent of stormwater service related to:

- (A) Public roads, public rights of way and public detention ponds(detention pond maintenance limited to activities necessary for proper functionality),

EXHIBIT A

- (B) Drainage features within existing dedicated public easements (excluding private commercial detention ponds).
- (C) These services extend to the downstream end of the first private infrastructure connected to the City of Fayetteville's drainage system.
- (D) Prior to City accepting responsibility for any private stormwater system, its owner must dedicate a drainage easement to the City of sufficient size as determined by the City to allow access to and work on the drainage facilities with appropriate equipment. The City Engineer shall determine the sufficiency of the width and extent of easements.

52.10 - Reserved

ARTICLE III – ADMINISTRATION

52.11 – Administration and Appeals

- (A) The City Engineer is responsible for the interpretation and administration of this chapter.
- (B) Owners may appeal the initial amount of the Stormwater Management Utility Fee credit allowed denial of exemption or other dispute to the City Engineer, who shall determine the validity of any such appeal. The City Engineer shall set forth the requirements of any such appeal in the Drainage Criteria Manual. The City Engineer shall report the amount of any requested credit to be allowed in writing to the appellant and maintain such record by the Engineering Department for at least one year.
- (C) After exhausting administrative means with the City Engineer, customers desiring to further appeal of an impervious area estimate, fee or credit can be heard by The City Water and Sewer Committee pursuant to Chapter 155: Appeals."

52.12 – Sustainable Credit Framework

- (A) A Sustainable Credit Framework will be established by the City Council that provides all Stormwater Management Utility customers with an opportunity to reduce their normal fees. Customers may qualify for renewable fee reductions by demonstrating activities or stormwater practices that increase the water quality and thereby reduce the water quality and quantity burden imposed on the City of Fayetteville's drainage system. Activities eligible for credit include the following:
 - (1) Compliance with an industrial stormwater permit.
 - (2) Public customers that establish contracts, or Interlocal Cooperation Agreements, with the City under § 25-20-104 will receive a credit recognizing the value of their public efforts to reduce stormwater runoff, in accordance with the terms of the interlocal agreement.
 - (3) Using shared parking lots to minimize the creation of new impervious area
 - (4) Property retrofits using Water Quality, Flood, and Tree Mitigation Measures from the Drainage Criteria Manual.
 - (5) Attendance at approved Stormwater Education Program and Stormwater Stewardship Activities.
 - (6) Demonstration of no direct discharge of stormwater.

EXHIBIT A

- (B) The final Sustainable Credit Framework, including appropriate application forms and instructions, will be developed and available to customers a minimum of 6 months in advance of the effective date of the initial collection of the Stormwater Management Utility Fee.

52.13 - Billing and collection

The Stormwater Management and Fee shall be administered and collected in the same manner as the City's sewer utility.

52.14—52.15 - Reserved



Becky Roark
Executive Director, Beaver Watershed Alliance
PO Box 762
Elkins, AR 72727
Becky@beaverwatershedalliance.org
479-305-9701

April 10, 2024

City of Fayetteville Council Members
113 West Mountain St.
Fayetteville, AR 72701

RE: Support for Stormwater Utility

Dear City of Fayetteville Council Members,

I am writing to express strong support for the implementation of a stormwater utility in Fayetteville and its positive impact on the Beaver Lake watershed. Beaver Watershed Alliance is a 501c3 nonprofit watershed group, formed in 2011, working to protect, enhance and sustain Beaver Lake and the integrity of its watershed. We work closely with the City of Fayetteville and residents to engage the public in conservation stewardship, work alongside city staff to install green infrastructure and have celebrated many success stories in water quality achievements over the past decade. However, with the growth outpacing the resources for water quality protection and restoration needs, we believe that this initiative is crucial for the future of water quality in the Town Branch watershed and West Fork watershed, which are major tributaries to Beaver Lake, and an additional safeguard to keep high-quality drinking water rates low for residents.

Increased urbanization and land development have led to a rise in stormwater runoff, which poses significant threats to water quality and ecosystem health. Pollution from sediment, nutrients, and contaminants can degrade water quality, harm aquatic life, and jeopardize public health. Sediments are costly to the drinking water utilities to remove and dispose.

By implementing a stormwater utility, Fayetteville can take proactive measures to mitigate the adverse effects of stormwater runoff and protect the integrity of the Beaver Lake watershed. The revenue generated from a stormwater utility fee could be invested in critical infrastructure projects, including green infrastructure, detention pond management, and erosion control measures, which help to reduce runoff volume and pollutant loads. Additionally, funding can support educational programs and outreach efforts to raise awareness about the importance of watershed stewardship and encourage sustainable practices among residents and businesses.

We urge you, as members of the City of Fayetteville Council, to consider the positive outcomes from the implementation of a stormwater utility as a critical step towards safeguarding the Beaver Lake watershed and ensuring a sustainable future for generations to come. Your leadership and commitment to environmental stewardship will not only benefit our community and watersheds today but leave a legacy of conservation and responsible resource management in our region.

Thank you for your attention to this matter, and we look forward to seeing the City of Fayetteville continue as a leader in stormwater management and water quality protection.

Sincerely,

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

Becky Roark
Executive Director
Beaver Watershed Alliance
becky@beaverwatershedalliance.org

Good evening Mayor and City Council, my name is Mia Alansari and I live in Ward 3 and I am the Environmental Action and Sustainability Chair for the Fayetteville Youth Advisory Council.

If you have lived in Fayetteville, you have seen how it floods. These floods create runoff that carry pollutants that affect our drinking water. It affects the water we drink so it affects us all.

On April 23rd, I had a meeting with Leif Olson and Chris McNamara, two members of the sustainability department for the City of Fayetteville. Our meeting was to discuss and for me to become familiar with the environmental needs of Fayetteville as the inaugural Environmental Action and Sustainability Chair for the Fayetteville Youth Advisory Council. They brought the stormwater management plan to my attention. After that meeting, I felt it was important to share this with my fellow youth council members.

On April 25th, we had our monthly Youth Advisory Council Meeting. I presented a presentation on the information discussed at my earlier meeting. At the meeting, the Fayetteville Youth Advisory Council made a unanimous vote for a motion to recommend that the City Council support and vote in favor of the Stormwater Management Utility Plan.

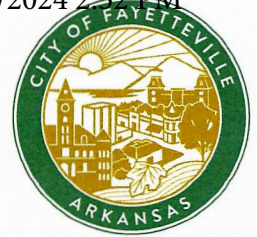
I understand that on May 21st, The City Council approved a resolution of intent for this plan. The Fayetteville Youth Advisory Council encourages The City Council to vote in favor of this plan. As representatives of the youth of Fayetteville, we believe your decision affects our future and the residents of Fayetteville's quality of life. We hope this plan can pave the way for areas around us.

Thank you on the behalf of the Fayetteville Youth Advisory Council for your time and have a good evening.



OFFICE OF THE
CITY ATTORNEY

DEPARTMENTAL CORRESPONDENCE



Kit Williams
City Attorney

Blake Pennington
Senior Assistant City Attorney

Hannah Hungate
Assistant City Attorney

Stacy Barnes
Paralegal

TO: **Lioneld Jordan**, Mayor
City Council

CC: **Susan Norton**, Chief of Staff
Chris Brown, Public Works Director
Alan Pugh, Stormwater Engineer

FROM: **Kit Williams**, City Attorney

DATE: **December 4, 2024**

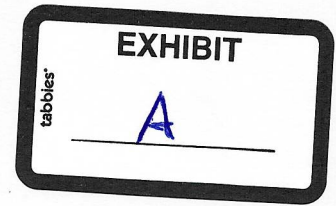
RE: **Slight change (increase of six cents for Tier 1 houses)**

The table of fees in § 52.07 in the previous Exhibit A has been slightly updated by our Stormwater Engineer from the table that I provided you in my last memo. Attached is the corrected Exhibit A with the proper table of rates in § 52.07. This new table reflects an increase of five cents in the "initial rate per billing unit (1,000 square feet of impervious area)."

The attached Exhibit A (Chapter 52, **Stormwater Management Utility Fee**) is now what the Administration and my office recommend for your consideration.

CHAPTER 52: STORMWATER MANAGEMENT UTILITY FEE

ARTICLE I – GENERAL PROVISIONS



52.01 - Purpose

The Stormwater Management Utility Fee is hereby established to create an equitable, efficient, and dedicated funding source for stormwater management services in the City of Fayetteville and provide for the safety, preserve the health and promote the prosperity of Fayetteville residents, businesses and institutions. The Stormwater Management Utility Fee is further needed:

- (A) To establish an equitable, fair, efficient and dedicated funding source for stormwater management services in the City of Fayetteville, Arkansas in addition to other taxpayer funds so that better long-range planning can be achieved.
- (B) To provide essential improvements and enhancements to the city's stormwater management facilities necessitated by substantially increased flooding caused by global warming and climate change as evidenced recently in North Carolina, Madrid Spain, and many other locations.
- (C) To lessen or deter hazards to persons, property and the environment caused by increased runoff, obstructions to drainage and introduction of excessive silts, debris and pollutants into the drainage system, lakes, ponds, streams, rivers and other water bodies in the City of Fayetteville, and to otherwise promote the public health, safety and welfare of the public.
- (D) To fund the City's MS4 Stormwater Management Program for which it is expected to implement a series of minimum control measures and report on their progress annually. In addition to new measures with each 5-year permit renewal, the City is projected to meet the population threshold of 100,000 by 2030 and could be designated a medium MS4 community, triggering additional mandated activities.
- (E) To administer the National Flood Insurance Program and its Community Rating System which provides property owners with credits to reduce their flood insurance premiums,
- (F) To equitably and legally address drainage needs, also known as stormwater management, to protect public health, safety, and welfare and to reduce flooding on city streets thereby ensuring access of emergency vehicles to all properties within the City during flood events, by providing resources for construction, maintenance, and operation of stormwater facilities.
- (G) To implement additional watershed improvements of the City's waters in general, and specifically, that of Beaver Lake, the City's drinking water source, and the Illinois River.

52.02 - Definitions

The following definitions shall apply to this chapter:

Billing Unit shall mean the unit by which stormwater utility bills are calculated. A single billing unit shall be equal to 1,000 square feet of impervious area.

Customer shall mean all persons or entities to whom the Stormwater Management Utility Fee is properly billed. A customer is further defined as a person or an entity billed for sanitary sewer services within the City limits.

Credit shall mean a conditional, renewable reduction in the amount of the fee owed by a customer in accordance with the Sustainable Credit Framework.

Public customer shall mean a local public agency including property of a school district within the City of Fayetteville.

Public Stormwater System shall mean all stormwater conveyance systems and appurtenances located within the City of Fayetteville right-of-way or public drainage easements. All other stormwater conveyance systems and appurtenances shall be considered Private Stormwater Systems.

Stormwater Management Utility Fee is the fee applicable to all real property within the City of Fayetteville, Arkansas which is billable to the City's Sewer Utility customers except for agencies of the State of Arkansas, Federal Government, and Washington County owned structures.

Tax-exempt customer shall mean those private organizations that qualify for property tax exemptions under the Arkansas Constitution, Article 16, § 5, based on actual use. Examples include churches, cemeteries as well as property used exclusively for public charity.

52.03 - Applicability

- (A) This chapter shall apply to all real property within the jurisdiction of the City of Fayetteville, Arkansas for which sanitary sewer is provided upon which a city stormwater utility fee ordinance may be enforced. The Stormwater Management Utility Fee shall not be assessed against the University of Arkansas, other State Agency property, Federal Agency property, Washington County property, or the runways and taxi ways of the Fayetteville Executive Airport.
- (B) City-owned real property constituting the municipal drainage system, including public streets, public rights-of-way, drainage facilities, and related infrastructure is not served by a sanitary sewer and thus is not subject to a stormwater utility fee.
- (C) The requirements of this chapter do not relieve landowners, developers, other individuals, and entities from their responsibility for complying with the obligations of other portions of the Unified Development Code.

52.04—52.05 - Reserved

ARTICLE II – STORMWATER MANAGEMENT UTILITY FUND

52.06 - Establishment of a Stormwater Management Utility Fund

Pursuant to A.C.A. § 14-235-201 and other state law, the City of Fayetteville hereby creates a fund entitled the "Stormwater Management Utility Fund" for the purpose of segregating, identifying, and controlling revenues and expenses for operation of the City of Fayetteville Stormwater Management Program and other storm-related equipment, construction, materials, supplies or services attributable to these functions. The following revenue sources shall be deposited in said fund:

- (A) All revenue collected by or on behalf of the Stormwater Management Utility Fee.
- (B) Revenue from contributions in-lieu of onsite detention or from developers as contributions for required off-site drainage improvements, which may include bridge assessments.

- (C) Any interest earned on monies held in the Stormwater Management Utility Fund.
- (D) Any other revenue as may be determined appropriate by the City Council, including but not limited to general revenue, bond and grant proceeds.

These revenues shall be used exclusively for the purposes listed in Article I – General Provisions.

52.07 – Authorization of a Stormwater Management Utility Fee

The Stormwater Management Utility Fee is a utility fee that is hereby authorized to be charged on most real property within the City of Fayetteville, Arkansas. The fee shall be billable to the City's Sewer Utility customers. The rate structure for the utility fee shall:

- (A) Be based on the square footage of impervious area on a property,
- (B) Be owner / customer-neutral,
- (C) Use a billing unit of 1,000 square feet of impervious area,
- (D) Slot property within the following six-tier billing unit structure:

Tier	Tier Range (by square footage of impervious area on a property)	Billing Units	Initial Monthly Fee
1	Less than 2,000	1.25	\$1.69
2	2,001 to 3,500	2.75	\$3.71
3	3,501 to 5,000	4.25	\$5.73
4	5,001 to 6,500	5.75	\$7.76
5	6,501 to 8,000	7.25	\$9.79
6	More than 8,000	See (F)	See (F)

- (E) For Tiers 1 through 5, the billing unit in the chart shall be multiplied by the billing rate per unit rounded down to the nearest cent.
- (F) For Tier 6, properties with impervious area greater than 8,000 square feet, the actual impervious area is divided by 1,000 and multiplied by the monthly rate per billing unit.
- (G) The initial rate per billing unit shall be \$1.35. This rate shall be increased by 3% per year beginning in the January 2026 billing period. No rates shall increase after 2031 without a further rate study.
- (H) Fees for sewer customers on properties with multiple sewer accounts shall be based on the individual sewer customer's percentage of total impervious area of the property or properties that may be attributed to the customer's account, included any areas of parking, common use areas, or other impervious area on the attributable properties.
- (I) Sewer customers or property owners may apply to have the fee for their property mitigated or reduced by the Sustainable Credit Framework.

52.08 – Initial Charge for the Stormwater Management Utility Fee

The Stormwater Management Utility Fee shall be placed for required payment and collection upon all established City utility bills on which the City may constitutionally and legally assess such Stormwater Management Utility Fee beginning with the August, 2025 utility bills provided to utility customers. The Stormwater Management Utility Fee shall continue to be collected every month thereafter with such Stormwater Management Utility Fee increasing by three percent (3%) in January 2026 and annually thereafter through 2031. Any additional increases after 2031 shall require another rate study before implementation.

52.09 – Level and Extent of Service Policies

The level of services funded by the Stormwater Management Utility Fees are dependent upon the amount of revenue generated by this Utility Fee, as well as possible general fund, sales tax bond, grants and other sources. These revenues shall fund the operation and maintenance, engineering and planning, regulatory compliance, stormwater capital improvements and administration of the City of Fayetteville's MS4 Program. The most recently adopted version of the City of Fayetteville Drainage Criteria Manual and Green Stormwater Practices will serve as the basis for the extent of stormwater service related to:

- (A) Public roads, public rights of way and public detention ponds,
- (B) Drainage features within existing dedicated public easements (excluding private commercial detention ponds).
- (C) These services extend to the downstream end of the first private infrastructure connected to the City of Fayetteville's drainage system.
- (D) Prior to City accepting responsibility for any private stormwater system, its owner must dedicate a drainage easement to the City of sufficient size as determined by the City to allow access to and work on the drainage facilities with appropriate equipment.

52.10 - Reserved

ARTICLE III – ADMINISTRATION

52.11 – Administration and Appeals

- (A) The City Engineer is responsible for the administration of this chapter.
- (B) A city sewer customer (an owner or tenant of any property within the City receiving sewer service from the City) which is subject to the Stormwater Management Utility Fee in August of 2025 may appeal the initial Stormwater Management Utility Fee assessed amount for their property to the City Engineer who will review the following:
 - 1) The amount of impervious surface of the property and the proper amount of the Stormwater Management Utility Fee charged for this impervious surface.
 - 2) The amount initially allowed for any Stormwater Management Utility Fee credit or the denial of any legal or constitutional exemption or defense to the payment of such Stormwater Management Utility Fee.
 - 3) Any allegation or claim that the affected city sewer customer asserts that the Stormwater Management Utility Fee may not be legally or constitutionally assessed against their property.
 - 4) Such appeal to the City Engineer shall be in writing, shall designate all of the city sewer customer's objections and claims against the amount assessed, the amount of credit allowed, any legal or constitutional arguments that this fee violates the city sewer customer's rights, and shall be signed by the city sewer customer (tenant if applicable and also by the property owner or the legal and proper agent for trusts, LLCs, corporations and other non-human entities owning the property).
 - 5) Such appeal must be filed in the Development Services Office no later than thirty (30) calendar days after the utility bills containing the Stormwater Management Utility Fee applicable to their property were distributed to the property owner or city sewer customer in August of 2025.

- 6) The City Engineer shall provide the written response and conclusions concerning all objections or claims presented by the appealing owner to the sewer customer's address currently used for utility bills by first class mail or to the owner's mailing address (if different) or by email if the owner has supplied this to City Engineer.
- (C) Should the appealing owner disagree or feel aggrieved by the written decision of the City Engineer, the property owner may appeal the City Engineer's decision to the Fayetteville City Council.
- 1) All appeals shall be submitted in writing to the Fayetteville City Clerk/Treasurer's Office within ten (10) business days from the date that the City Engineer rendered and sent the decision to the appellant.
 - 2) All appeals shall explain why the appellant contends that the City Engineer's decision was in error. The appellant should include all of its claims, including any legal or constitutional arguments that would render the Stormwater Management Utility Fee invalid as applied to this appellant.
- (D) The City Engineer (and on appeal the City Council) may consider whether the property whose owner is appealing from some or all of the Stormwater Management Utility Fee requirements has:
- 1) Unique topography that could limit or affect the amount of benefits from the City's improving stormwater management measures; and
 - 2) Existing and well-maintained private stormwater management facilities that do not now concentrate nor direct excessive stormwater to the potential harm of downhill neighbors or city stormwater management facilities; and
 - 3) Proper plans to alter any existing private stormwater management facilities and agrees to promptly and fully construct such facilities to reduce or prevent excessive stormwater from harming downhill neighbors or the city stormwater management facilities.
- (E) If the City Engineer (and on appeal the City Council) determines that the Stormwater Management Utility Fee is fair and reasonable and bears a reasonable relationship to the benefits conferred upon the owner of this property, then the full amount of the Stormwater Management Utility Fee should be required to be paid (less any credits). If not, then the City Engineer and/or City Council shall determine the proper amount of the fee that would be fair, reasonable and bear a reasonable relationship to the benefits conferred and establish that amount as the proper Stormwater Management Utility Fee for this owner's property.

52.12 – Sustainable Credit Framework

- (A) A Sustainable Credit Framework will be established by the City Council that provides all Stormwater Management Utility customers with an opportunity to reduce their normal fees. Customers may qualify for renewable fee reductions by demonstrating activities or stormwater practices that increase the water quality and thereby reduce the water quality and quantity burden imposed on the City of Fayetteville's drainage system. A maximum of 75 percent credit may be achieved by one or more of the following:
- (1) Compliance with the City's Drainage Criteria Manual for water quality, channel protection, and flood protection.
 - (2) Compliance with an industrial or institutional stormwater permit.
 - (3) Public customers that establish contracts, or Interlocal Cooperation Agreements, with the City under § 25-20-104 will receive a credit recognizing the value of their public efforts to reduce stormwater runoff, in accordance with the terms of the interlocal agreement.
 - (4) Using shared parking lots to minimize the creation of new impervious area.

- (5) Property retrofits using Water Quality, Flood, and Tree Mitigation Measures from the Drainage Criteria Manual.
 - (6) Tax-exempt customers can apply for credits for approved Stormwater Education Program and Stormwater Stewardship Activities.
- (B) The final Sustainable Credit Framework, including appropriate application forms and instructions, will be developed and available to customers a minimum of four (4) months in advance of the effective date of the initial collection of the Stormwater Management Utility Fee.

52.13 - Billing and collection

The Stormwater Management and Fee shall be administered and collected in the same manner as the City's sewer utility.

52.14—52.15 - Reserved



DEPARTMENTAL CORRESPONDENCE

OFFICE OF THE
CITY ATTORNEY

TO: **Mayor Jordan**
City Council
Kara Paxton, City Clerk Treasurer

Susan Norton, Chief of Staff
CC: **Chris Brown**, Public Works Director

FROM: **Kit Williams**, City Attorney

DATE: **December 13, 2024**

RE: **Final Proposed Amendments to Exhibit A Stormwater Management Utility Fee Chapter**

Most of the proposed Exhibit A, Stormwater Management Utility Fee Chapter, needs no changes. However, a couple of sections did need changes to better express the wishes of the City Council or to provide an appeal process to ensure the Fee will be constitutionally assessed for all potential customers. For example, § 52.08 **Initial Charge for the Stormwater Management Utility Fee** was just that. There was no language clearly stating that this utility fee would then be charged monthly to all customers. Rather than relying on a valid argument that the fees should be impliedly collected monthly, it is safer to just clearly say that within this section. I also proposed a new title for this section: **Collection of Stormwater Management Utility Fee**.

Council Member Berna proposed a definition of "*Impervious surface and area*" which has been added to 52.02 **Definitions**. This should ensure that property owners will not be assessed for the Stormwater Management Utility Fee for impervious surfaces for city trails, sidewalks, or drainage structures on city right-of-way.

I have also proposed another purpose or need for this Stormwater Management Utility Fee in § 52.01 as further justification for enacting this proposal now. Global warming is not under our power to control and has recently proven it will cause substantial, unprecedented, and increasing flooding damages to private and public property without substantial and continuing city investment in stormwater management facilities. This presents a very good argument that we do not need to just maintain our stormwater management facilities, but we must improve and enhance them with revenue from the Stormwater Management Utility Fee. This further ensures that this proposed Stormwater Management Utility Fee is legal and constitutional. My new wording is found in § 52.01 (B).



Kit Williams
City Attorney

Blake Pennington
Senior Assistant City Attorney

Hannah Hungate
Assistant City Attorney

Stacy Barnes
Paralegal

Another proposal to help ensure that this stormwater utility fee is constitutional is to create a clear administrative appeal procedure that any person must follow prior to filing suit in court. This simple appeal initially to Public Works Director Chris Brown allows any ratepayers or owner to present any claim that due to their property's unusual topography or their up-to-date, state-of-the-art private stormwater management infrastructure, they should be relieved from paying some or all of the Stormwater Management Utility Fee. The ratepayer/owner can get this answer without having to hire an attorney (which would be needed if the ratepayer had to file suit). If the ratepayer/owner is dissatisfied by Chris Brown's decision, it can be appealed to the City Council. This appeal process ensures that the City Council has the power to address and resolve all potential claims of illegality or unconstitutionality of the Stormwater Management Utility Fee without the need for expensive litigation.

I do not offer nor do I believe any amendments or changes are needed in Sections 52.02 through 52.07. I also have not suggested any change in Section 52.12 **Sustainable Credit Framework**. I have rewritten both § 52.08 **Collection of Stormwater Management Utility Fee** and § 52.11 **Administration and Appeals** in their entirety. I have deleted § 52.13 and placed its wording in § 52.08.

It would not be a mistake to consider referring this proposed **Stormwater Management Utility Fee** Chapter to a vote of the people which would defeat any argument that the Stormwater Management Utility Fee is tax rather than a fee. But I believe the proposed new appeal process provides substantial legal and constitutional protection to ensure the City would not inadvertently apply the fee improperly. I can draft a referral-to-the-voters amendment of the enacting ordinance if any Council Member does want to submit the Stormwater Management Utility Fee to the electors.

I have placed actual dates for this Stormwater Management Utility Fee to be effective (August 2025) rather than the sometimes confusing "after a year" language that was proposed. I also changed from requiring the final **Sustainable Credit Framework** be available six months before the effective date to four months so this can make the August 2025 effective date. We certainly do not want the January 2026 3% increase to occur only a month after the initial billing including the fee is first sent out.

I have had extensive discussions with Chief of Staff Susan Norton, Public Works Director Chris Brown, and Stormwater Engineer Alan Pugh about these modifications of what was approved in substance in your previous Resolution of Intent. I believe that we are in agreement that these changes are compatible with the City Council's intention and will improve the procedure for charging and collecting the fee. Therefore, I am presenting these proposed changes to the City Council for your discussion and hopefully your approval. Attached is the new (hopefully final) proposed Exhibit A which will become Chapter 52 **Stormwater Management Utility Fee** once and if the City Council or the voters have approved it.

CHAPTER 52: STORMWATER MANAGEMENT UTILITY FEE

ARTICLE I – GENERAL PROVISIONS

52.01 - Purpose

The Stormwater Management Utility Fee is hereby established to create an equitable, efficient, and dedicated funding source for stormwater management services in the City of Fayetteville and provide for the safety, preserve the health and promote the prosperity of Fayetteville residents, businesses and institutions. The Stormwater Management Utility Fee is further needed:

- (A) To establish an equitable, fair, efficient and dedicated funding source for stormwater management services in the City of Fayetteville, Arkansas in addition to other taxpayer funds so that better long-range planning can be achieved.
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- (D) To fund the City's MS4 Stormwater Management Program for which it is expected to implement a series of minimum control measures and report on their progress annually. In addition to new measures with each 5-year permit renewal, the City is projected to meet the population threshold of 100,000 by 2030 and could be designated a medium MS4 community, triggering additional mandated activities.
- (E) To administer the National Flood Insurance Program and its Community Rating System which provides property owners with credits to reduce their flood insurance premiums,
- (F) To equitably and legally address drainage needs, also known as stormwater management, to protect public health, safety, and welfare and to reduce flooding on city streets thereby ensuring access of emergency vehicles to all properties within the City during flood events, by providing resources for construction, maintenance, and operation of stormwater facilities.
- (G) To implement additional watershed improvements of the City's waters in general, and specifically, that of Beaver Lake, the City's drinking water source, and the Illinois River.

52.02 - Definitions

The following definitions shall apply to this chapter:

Billing Unit shall mean the unit by which stormwater utility bills are calculated. A single billing unit shall be equal to 1,000 square feet of impervious area.

Customer shall mean all persons or entities to whom the Stormwater Management Utility Fee is properly billed. A customer is further defined as a person or an entity billed for sanitary sewer services within the City limits.

Credit shall mean a conditional, renewable reduction in the amount of the fee owed by a customer in accordance with the Sustainable Credit Framework.

Impervious surface or area means a surface or area that allows little, if any, stormwater to penetrate to the soil under such surface. Gravel areas are deemed impervious for this chapter. A City right-of-way on which an impervious surface has been paved or otherwise placed, such as city sidewalks, city trails, and city drainage facilities shall not be counted as an impervious area for the underlying property owner when determining the total impervious area for the Stormwater Management Utility Fee.

Public customer shall mean a local public agency including property of a school district within the City of Fayetteville.

Public Stormwater System shall mean all stormwater conveyance systems and appurtenances located within the City of Fayetteville right-of-way or public drainage easements. All other stormwater conveyance systems and appurtenances shall be considered Private Stormwater Systems.

Stormwater Management Utility Fee is the fee applicable to all real property within the City of Fayetteville, Arkansas which is billable to the City's Sewer Utility customers except for agencies of the State of Arkansas, Federal Government, and Washington County owned structures.

Tax-exempt customer shall mean those private organizations that qualify for property tax exemptions under the Arkansas Constitution, Article 16, § 5, based on actual use. Examples include churches, cemeteries as well as property used exclusively for public charity.

52.03 - Applicability

- (A) This chapter shall apply to all real property within the jurisdiction of the City of Fayetteville, Arkansas for which sanitary sewer is provided upon which a city stormwater utility fee ordinance may be enforced. The Stormwater Management Utility Fee shall not be assessed against the University of Arkansas, other State Agency property, Federal Agency property, Washington County property, or the runways and taxi ways of the Fayetteville Executive Airport.
- (B) City-owned real property constituting the municipal drainage system, including public streets, public rights-of-way, drainage facilities, and related infrastructure is not served by a sanitary sewer and thus is not subject to a stormwater utility fee.
- (C) The requirements of this chapter do not relieve landowners, developers, other individuals, and entities from their responsibility for complying with the obligations of other portions of the Unified Development Code.

52.04—52.05 - Reserved

ARTICLE II – STORMWATER MANAGEMENT UTILITY FUND

52.06 - Establishment of a Stormwater Management Utility Fund

Pursuant to A.C.A. § 14-235-201 and other state law, the City of Fayetteville hereby creates a fund entitled the "Stormwater Management Utility Fund" for the purpose of segregating, identifying, and controlling revenues and expenses for operation of the City of Fayetteville Stormwater Management

Program and other storm-related equipment, construction, materials, supplies or services attributable to these functions. The following revenue sources shall be deposited in said fund:

- (A) All revenue collected by or on behalf of the Stormwater Management Utility Fee.
- (B) Revenue from contributions in-lieu of onsite detention or from developers as contributions for required off-site drainage improvements, which may include bridge assessments.
- (C) Any interest earned on monies held in the Stormwater Management Utility Fund.
- (D) Any other revenue as may be determined appropriate by the City Council, including but not limited to general revenue, bond and grant proceeds.

These revenues shall be used exclusively for the purposes listed in Article I – General Provisions.

52.07 – Authorization of a Stormwater Management Utility Fee

The Stormwater Management Utility Fee is a utility fee that is hereby authorized to be charged on most real property within the City of Fayetteville, Arkansas. The fee shall be billable to the City's Sewer Utility customers. The rate structure for the utility fee shall:

- (A) Be based on the square footage of impervious area on a property,
- (B) Be owner / customer-neutral,
- (C) Use a billing unit of 1,000 square feet of impervious area,
- (D) Slot property within the following six-tier billing unit structure:

Tier	Tier Range (by square footage of impervious area on a property)	Billing Units	Initial Monthly Fee
1	Less than 2,000	1.25	\$1.69
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4	5,001 to 6,500	5.75	\$7.76
5	6,501 to 8,000	7.25	\$9.79
6	More than 8,000	See (F)	See (F)

- (E) For Tiers 1 through 5, the billing unit in the chart shall be multiplied by the billing rate per unit rounded down to the nearest cent.
- (F) For Tier 6, properties with impervious area greater than 8,000 square feet, the actual impervious area is divided by 1,000 and multiplied by the monthly rate per billing unit.
- (G) The initial rate per billing unit shall be \$1.35. This rate shall be increased by 3% per year beginning in the January 2026 billing period. No rates shall increase after 2031 without a further rate study.
- (H) Fees for sewer customers on properties with multiple sewer accounts shall be based on the individual sewer customer's percentage of total impervious area of the property or properties that may be attributed to the customer's account, included any areas of parking, common use areas, or other impervious area on the attributable properties.
- (I) Sewer customers or property owners may apply to have the fee for their property mitigated or reduced by the Sustainable Credit Framework.

52.08 – Collection of the Stormwater Management Utility Fee

The Stormwater Management Utility Fee shall be placed for required payment and collection upon all established City utility bills on which the City may constitutionally and legally assess such Stormwater Management Utility Fee beginning with the August, 2025 utility bills provided to utility customers. The Stormwater Management Utility Fee shall continue to be collected every month thereafter with such Stormwater Management Utility Fee increasing by three percent (3%) in January 2026 and annually thereafter through 2031. Any additional increases after 2031 shall require another rate study before implementation.

52.09 – Level and Extent of Service Policies

The level of services funded by the Stormwater Management Utility Fees are dependent upon the amount of revenue generated by this Utility Fee, as well as possible general fund, sales tax bond, grants and other sources. These revenues shall fund the operation and maintenance, engineering and planning, regulatory compliance, stormwater capital improvements and administration of the City of Fayetteville's MS4 Program. The most recently adopted version of the City of Fayetteville Drainage Criteria Manual and Green Stormwater Practices will serve as the basis for the extent of stormwater service related to:

- (A) Public roads, public rights of way and public detention ponds,
- (B) Drainage features within existing dedicated public easements (excluding private commercial detention ponds).
- (C) These services extend to the downstream end of the first private infrastructure connected to the City of Fayetteville's drainage system.
- (D) Prior to City accepting responsibility for any private stormwater system, its owner must dedicate a drainage easement to the City of sufficient size as determined by the City to allow access to and work on the drainage facilities with appropriate equipment.

52.10 - Reserved

ARTICLE III – ADMINISTRATION

52.11 – Administration and Appeals

- (A) The City Engineer is responsible for the administration of this chapter.
- (B) A city sewer customer (an owner or tenant of any property within the City receiving sewer service from the City) which is subject to the Stormwater Management Utility Fee in August of 2025 may appeal the initial Stormwater Management Utility Fee assessed amount for their property to the City Engineer who will review the following:
 - 1) The amount of impervious surface of the property and the proper amount of the Stormwater Management Utility Fee charged for this impervious surface.
 - 2) The amount initially allowed for any Stormwater Management Utility Fee credit or the denial of any legal or constitutional exemption or defense to the payment of such Stormwater Management Utility Fee.
 - 3) Any allegation or claim that the affected city sewer customer asserts that the Stormwater Management Utility Fee may not be legally or constitutionally assessed against their property.
 - 4) Such appeal to the City Engineer shall be in writing, shall designate all of the city sewer customer's objections and claims against the amount assessed, the amount of credit

- allowed, any legal or constitutional arguments that this fee violates the city sewer customer's rights, and shall be signed by the city sewer customer (tenant if applicable and also by the property owner or the legal and proper agent for trusts, LLCs, corporations and other non-human entities owning the property).
- 5) Such appeal must be filed in the Development Services Office no later than thirty (30) calendar days after the utility bills containing the Stormwater Management Utility Fee applicable to their property were distributed to the property owner or city sewer customer in August of 2025.
 - 6) The City Engineer shall provide the written response and conclusions concerning all objections or claims presented by the appealing owner to the sewer customer's address currently used for utility bills by first class mail or to the owner's mailing address (if different) or by email if the owner has supplied this to City Engineer.
- (C) Should the appealing owner disagree or feel aggrieved by the written decision of the City Engineer, the property owner may appeal the City Engineer's decision to the Fayetteville City Council.
- 1) All appeals shall be submitted in writing to the Fayetteville City Clerk/Treasurer's Office within ten (10) business days from the date that the City Engineer rendered and sent the decision to the appellant.
 - 2) All appeals shall explain why the appellant contends that the City Engineer's decision was in error. The appellant should include all of its claims, including any legal or constitutional arguments that would render the Stormwater Management Utility Fee invalid as applied to this appellant.
- (D) The City Engineer (and on appeal the City Council) may consider whether the property whose owner is appealing from some or all of the Stormwater Management Utility Fee requirements has:
- 1) Unique topography that could limit or affect the amount of benefits from the City's improving stormwater management measures; and
 - 2) Existing and well-maintained private stormwater management facilities that do not now concentrate nor direct excessive stormwater to the potential harm of downhill neighbors or city stormwater management facilities; and
 - 3) Proper plans to alter any existing private stormwater management facilities and agrees to promptly and fully construct such facilities to reduce or prevent excessive stormwater from harming downhill neighbors or the city stormwater management facilities.
- (E) If the City Engineer (and on appeal the City Council) determines that the Stormwater Management Utility Fee is fair and reasonable and bears a reasonable relationship to the benefits conferred upon the owner of this property, then the full amount of the Stormwater Management Utility Fee should be required to be paid (less any credits). If not, then the City Engineer and/or City Council shall determine the proper amount of the fee that would be fair, reasonable and bear a reasonable relationship to the benefits conferred and establish that amount as the proper Stormwater Management Utility Fee for this owner's property.

52.12 – Sustainable Credit Framework

- (A) A Sustainable Credit Framework will be established by the City Council that provides all Stormwater Management Utility customers with an opportunity to reduce their normal fees. Customers may qualify for renewable fee reductions by demonstrating activities or stormwater practices that increase the water quality and thereby reduce the water quality and quantity burden imposed on the City of Fayetteville's drainage system. A maximum of 75 percent credit may be achieved by one or more of the following:
- (1) Compliance with the City's Drainage Criteria Manual for water quality, channel protection, and flood protection.

- (2) Compliance with an industrial or institutional stormwater permit.
 - (3) Public customers that establish contracts, or Interlocal Cooperation Agreements, with the City under § 25-20-104 will receive a credit recognizing the value of their public efforts to reduce stormwater runoff, in accordance with the terms of the interlocal agreement.
 - (4) Using shared parking lots to minimize the creation of new impervious area.
 - (5) Property retrofits using Water Quality, Flood, and Tree Mitigation Measures from the Drainage Criteria Manual.
 - (6) Tax-exempt customers can apply for credits for approved Stormwater Education Program and Stormwater Stewardship Activities.
- (B) The final Sustainable Credit Framework, including appropriate application forms and instructions, will be developed and available to customers a minimum of four (4) months in advance of the effective date of the initial collection of the Stormwater Management Utility Fee.

52.13 - Billing and collection

The Stormwater Management and Fee shall be administered and collected in the same manner as the City's sewer utility.

52.14—52.15 - Reserved



CITY OF
FAYETTEVILLE
ARKANSAS

CITY COUNCIL MEMO
2024-0913

MEETING OF DECEMBER 17, 2024

TO: Mayor Jordan and City Council
THRU:
FROM: D'Andre Jones, Ward 1, Position 2
SUBJECT: Recognize National Day of Racial Healing on January 21, 2025

RECOMMENDATION:

Councilmember Jones is sponsoring a resolution for the City Council to recognize the National Day of Racial Healing on January 21, 2025

BACKGROUND:

DISCUSSION:

BUDGET/STAFF IMPACT:

ATTACHMENTS: Dr. Jones Agenda Request - (#3)



City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8323

Legislation Text

File #: 2024-0913

Recognize National Day of Racial Healing on January 21, 2025

A RESOLUTION FOR THE CITY OF FAYETTEVILLE TO RECOGNIZE THE NATIONAL DAY OF RACIAL HEALING ON JANUARY 21, 2025

WHEREAS, Truth, Racial Healing Transformation (TRHT) is a comprehensive, multi-year national and community-based process to bring about transformational and sustainable change; and

WHEREAS, through TRHT, partners address the historic and contemporary effects of racism in their communities and institutions and work to replace the deeply held belief system that fuels racism with one that sees the inherent value of all people; and

WHEREAS, this holistic approach addresses mind and heart, the interpersonal and systemic, and places the power of authentic, trust-based solidarity at the center; and

WHEREAS, racism impacts all of us, whether we are aware of it or not and the effects of racism are evident everywhere: in the places where we live, learn, work and play, in our social interactions and in our systems and policies; and

WHEREAS, people experience these effects when they take their children to school, apply for jobs, rent or buy a home, visit a doctor, try to access healthy food, in interactions with the police and more; and

WHEREAS, systemically, racism is one of the biggest obstacles to solving the challenges we face in our communities; and

WHEREAS, through TRHT, participants build relationships, trust and collective power at the community and institutional level and relationships lay the groundwork for powerful systemic change, as community partners re-envision and reshape their institutions, policies and practices; and

WHEREAS, racial healing is at the heart of racial equity and is about: the people work that leads to the transformation of systems; the telling of hard truths about past wrongs and present consequences; repairing the harm of racism; replacing the deeply held system that fuels racism with one that sees the inherent value of all people; and authentic relationship-building across real and perceived differences; and

WHEREAS, without racial healing and building trust, changes in policies or practices are short-lived; and

WHEREAS, through healing and relationship-building, we can collectively develop new values that affect our everyday decisions in areas of policy making, hiring, education and housing – to name just a few.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby recognizes that January 21, 2025, is and should be recognized in Fayetteville as the National Day of Racial Healing.

AGENDA REQUEST FORM

FOR: Council Meeting of December 17, 2024

FROM: Council Member D'Andre Jones

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

A RESOLUTION FOR THE CITY OF FAYETTEVILLE TO RECOGNIZE THE
NATIONAL DAY OF RACIAL HEALING ON JANUARY 21, 2025

APPROVED FOR AGENDA:

Approved by email

D'Andre Jones
City Council Member

12/5/2024

Date

Blake Pennington

Blake Pennington
Senior Assistant City Attorney
Approved as to form

12/5/2024

Date

Pennington, Blake

From: D'Andre Jones <dre91732000@gmail.com>
Sent: Thursday, December 5, 2024 9:14 AM
To: Pennington, Blake
Subject: Re: Resolution for the City of Fayetteville to join other cities across the country and proclaim January 21st National Day of Racial Healing Truth,

CAUTION: This email originated from outside of the City of Fayetteville. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Looks good
Sent from my iPhone

On Dec 5, 2024, at 9:07 AM, Pennington, Blake <bpennington@fayetteville-ar.gov> wrote:

Council Member Jones,

I just wanted to follow up on my email from last week. I am attaching the draft resolution and agenda request form again. If you approve please let me know so we can get this item on the next agenda.

Thank you,

Blake E. Pennington
Senior Assistant City Attorney
City of Fayetteville, Arkansas
bpennington@fayetteville-ar.gov
Direct: 479.575.8312
www.fayetteville-ar.gov
<image001.png>

From: Pennington, Blake
Sent: Tuesday, November 26, 2024 11:54 AM
To: D'Andre Jones <dre91732000@gmail.com>
Cc: Williams, Kit <kwilliams@fayetteville-ar.gov>; CityClerk <cityclerk@fayetteville-ar.gov>
Subject: RE: Resolution for the City of Fayetteville to join other cities across the country and proclaim January 21st National Day of Racial Healing Truth,

Attached is the draft resolution and agenda request form. I did make some stylistic edits to the language in what you sent below but it was mostly combining some of the shorter sentences so we wouldn't have so many Whereas clauses. If you approve you can either sign and return the agenda request form or indicate your approval by email and I'll get it added to the Dec. 17 agenda.

Thanks!

Blake

Blake E. Pennington
Senior Assistant City Attorney
City of Fayetteville, Arkansas
bpennington@fayetteville-ar.gov
Direct: 479.575.8312
www.fayetteville-ar.gov
<image001.png>

From: D'Andre Jones <dre91732000@gmail.com>
Sent: Tuesday, November 26, 2024 10:10 AM
To: Pennington, Blake <bpennington@fayetteville-ar.gov>
Subject: Re: Resolution for the City of Fayetteville to join other cities across the country and proclaim January 21st National Day of Racial Healing Truth,

CAUTION: This email originated from outside of the City of Fayetteville. Do not click links or open attachments unless you recognize the sender and know the content is safe.

No we can wait until the next agenda session
Sent from my iPhone

On Nov 26, 2024, at 9:44 AM, Pennington, Blake <bpennington@fayetteville-ar.gov> wrote:

D'Andre, are you wanting to walk this onto the agenda today?

Blake E. Pennington
Senior Assistant City Attorney
City of Fayetteville, Arkansas
bpennington@fayetteville-ar.gov
Direct: 479.575.8312
www.fayetteville-ar.gov
<image001.png>

From: D'Andre Jones <dre91732000@gmail.com>
Sent: Tuesday, November 26, 2024 9:42 AM
To: Williams, Kit <kwilliams@fayetteville-ar.gov>; Paxton, Kara <kapaxton@fayetteville-ar.gov>; Pennington, Blake <bpennington@fayetteville-ar.gov>
Subject: Fwd: Resolution for the City of Fayetteville to join other cities across the country and proclaim January 21st National Day of Racial Healing Truth,

CAUTION: This email originated from outside of the City of Fayetteville. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Resolution for the City of Fayetteville to join other cities across the country and proclaim January 21st National Day of Racial Healing Truth, an annual event sponsored by W.K. Kellogg Foundation's Truth, Racial Healing Transformation efforts. (TRHT) is a comprehensive, multi-year national and community-based process to bring about transformational and sustainable change. Through TRHT, partners address the historic and contemporary effects of racism in their communities and institutions. They work to replace the deeply held belief system that fuels racism with one that sees the inherent value of all people. This holistic approach addresses mind and heart, the interpersonal and systemic, and places the power of authentic, trust-based solidarity at the center. Racism impacts all of us, whether we are aware of it or not. The effects of racism are evident everywhere: in the places where we live, learn, work and play, in our social interactions and in our systems and policies. People experience these effects when they take their children to school, apply for jobs, rent or buy a home, visit a doctor, try to access healthy food, in interactions with the police and more. Systemically, racism is one of the biggest obstacles to solving the challenges we face in our communities. Through TRHT, participants build relationships, trust and collective power at the community and institutional level. These relationships lay the groundwork for powerful systemic change, as community partners re-envision and reshape their institutions, policies and practices.

Racial healing is at the heart of racial equity. Racial healing is about:

- the people work that leads to the transformation of systems;
- the telling of hard truths about past wrongs and present consequences;
- repairing the harm of racism;
- replacing the deeply held system that fuels racism with one that sees the inherent value of all people;
- authentic relationship-building across real and perceived differences.

Without racial healing and building trust, changes in policies or practices are short-lived. Through healing and relationship-building, we can collectively develop new values that affect our everyday decisions in areas of policy making, hiring, education and housing – to name just a few.

"



MEETING OF DECEMBER 17, 2024

TO: Mayor Jordan and City Council
THRU: Susan Norton, Chief of Staff
FROM: Alison Jumper, Director of Parks, Natural Resources and Cultural Affairs
SUBJECT: **Establishing Park Hours for the Upper Ramble**

RECOMMENDATION:

Approval of an ordinance to establish hours for the Upper Ramble.

BACKGROUND:

The City's newest park, The Ramble, is nearing completion. This park is unique to the park system, located in the entertainment district, a very active part of town, and adjacent to the Razorback Regional Greenway. With this in mind, special operating hours were considered to allow for safe use and maintenance and management of the space. Typical park hours are from daylight until 11pm, with the exception of the lakes, which close at sunset.

DISCUSSION:

Park staff consulted with the Police Department, the Operations Division of Public Works in determining the most appropriate hours for the park understanding its unique location. After several discussions, the hours from daylight to 3am are being proposed for the Upper Ramble. Acknowledging that many businesses in the area close on the weekends at 2am and people may travel through the park at that time, a 3am closing time seemed appropriate. This timeframe also coincides with the ability for the Dickson Street Police substation to check the park at shift change, and, will allow maintenance staff to address any pressing issues prior to the park reopening at daylight.

The proposed hours were presented to the Parks Natural Resources and Cultural Affairs Advisory Board and approved at the November meeting.

BUDGET/STAFF IMPACT:

ATTACHMENTS: SRF (#3), Chapter 97.015 Operating Hours Clean (#4), Chapter 97.015 Operating Hours Redline (#5)



City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8323

Legislation Text

File #: 2024-0905

Establishing Park Hours for the Upper Ramble

AN ORDINANCE TO AMEND § 97.015 OPERATING HOURS IN CHAPTER 97, ARTICLE II PARK OPERATIONS; ADMINISTRATION AND ENFORCEMENT OF THE CODE OF FAYETTEVILLE TO PROVIDE FOR EXTENDED HOURS IN THE UPPER RAMBLE

WHEREAS, the City's newest park, The Ramble, is located in the entertainment district, a very active part of town, and adjacent to the Razorback Regional Greenway; and

WHEREAS, typical park hours are from daylight until 11:00 pm except for the lakes, which close at sunset; and

WHEREAS, after consulting with the Police Department, the Operations Division of the Public Works Department determined the most appropriate hours for the Upper Ramble are from daylight to 3:00 am; and

WHEREAS, this time frame acknowledges that many businesses in the area close on the weekends at 2:00 am and people may travel through the park at that time; and

WHEREAS, this time frame also coincides with the ability for the Dickson Street Police substation to check the park at shift change and will allow maintenance staff to address any pressing issues prior to the park reopening at daylight.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby repeals § 97.015 **Operating Hours** in Chapter 97, Article II **Park Operations; Administration and Enforcement** and enacts a replacement § 97.015 as follows:

“97.015 Operating Hours

(A) City parks shall be open to the public every day of the year from daylight until 11:00 pm.

(B) Exceptions.

1. Shared Use Paved Trails as designated on the Parks and Trails Interactive Map shall be open to the public twenty-four (24) hours every day.
2. The Upper Ramble shall be open to the public every day from daylight until 3:00 am.
3. Operating hours for City lakes are governed by § 97.070.
4. City Staff is authorized to extend the operating hours of a park when reasonable and necessary to accommodate a tournament or special event.
5. Any park or portion of a park may be declared closed to the public by the City at any time and for any interval of time.”

City of Fayetteville Staff Review Form

2024-905

Item ID

12/17/2024

City Council Meeting Date - Agenda Item Only
N/A for Non-Agenda Item

Alison Jumper

11/25/2024

PARKS & RECREATION (520)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Ordinance to approve park hours for the Upper Ramble.

Budget Impact:

N/A

N/A

Account Number

Fund

N/A

N/A

Project Number

Project Title

Budgeted Item? No

Total Amended Budget

\$ -

Expenses (Actual+Encum)

\$ -

Available Budget

\$ -

Does item have a direct cost? No

Item Cost

\$ -

Is a Budget Adjustment attached? No

Budget Adjustment

\$ -

Remaining Budget

\$ -

V20221130

Purchase Order Number:

Previous Ordinance or Resolution #

Change Order Number:

Approval Date:

Original Contract Number:

Comments:

97.015 Operating Hours

- (A) Except for those instances described in subsection (B) below, City parks shall be open to the public every day of the year from daylight until 11:00 p.m.
- (B) Exceptions.
1. Shared Use Paved Trails as designated on the Parks and Trails Interactive Map shall be open to the public twenty-four (24) hours every day.
 2. The Upper Ramble shall be open to the public every day from daylight until 3:00 a.m.
 3. Operating hours for City lakes are governed by § 97.070
 4. City staff is authorized to extend the operating hours of a park when reasonable and necessary to accommodate a tournament or special event.
 5. Any park or portion of a park may be declared closed to the public by the City at any time and for any interval of time.

97.015 Operating Hours

- (A) ~~Except for unusual emergencies, c~~Except for those instances described in subsection (B) below, City parks shall be open to the public every day of the year from daylight until 11:00 p.m. ~~except Shared Use Paved Trails as designated on the Parks and Trails Interactive Map which are open twenty-four (24) hours every day. Any section or part of any park may be declared closed to the public by the city or its duly authorized representative at any time and for any interval of time.~~
- (B) Exceptions.
1. Shared Use Paved Trails as designated on the Parks and Trails Interactive Map shall be open to the public twenty-four (24) hours every day.
 2. The Upper Ramble shall be open to the public every day from daylight until 3:00 a.m.
 3. Operating hours for City lakes are governed by § 97.070
 4. City staff is authorized to extend the operating hours of a park when reasonable and necessary to accommodate a tournament or special event.
 - 1.5. Any park or portion of a park may be declared closed to the public by the City at any time and for any interval of time.



MEETING OF DECEMBER 17, 2024

TO: Mayor Jordan and City Council

THRU: Jessica Masters, Development Review Manager
Jonathan Curth, Development Services Director
Susan Norton, Chief of Staff

FROM: Wesley Frank, Planner

SUBJECT: **RZN-2024-0055: Rezoning (WEST OF 3296 E. HUNTSVILLE RD/PAIR, 528): Submitted by DAVID PAIR for property located WEST OF 3296 E. HUNTSVILLE RD., in WARD 1. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 0.60 acres. The request is to rezone the property to RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE.**

RECOMMENDATION:

City Planning staff and the Planning Commission recommend approval of a request to rezone the subject property as described and shown in the attached Exhibits 'A' and 'B'.

BACKGROUND:

The subject property is in southeast Fayetteville approximately 0.4 miles east of the intersection of S. Stone Bridge Rd and E. Huntsville Rd. The property contains approximately 0.6 acres and is undeveloped.

Request: The request is to rezone the subject property from R-A, Residential-Agricultural to RSF-4, Residential Single-Family, Four Units per Acre.

Public Comment: To date, staff have received no public comment.

Land Use Compatibility: Staff finds the proposed rezoning from R-A to RSF-4 to be compatible with the surrounding area. The subject property is adjacent to RSF-4-zoned single-family property across E. Huntsville Rd. to the north and east. A rezoning to RSF-4 would allow for the by-right development of single-family dwellings with a density of up to four units per acre. Additional housing options providing increased density are available through conditional use, such as two-family dwellings and cluster housing. R-A and RSF-4 have significantly different bulk and area requirements. Lot width minimum in R-A is 200 feet, but in RSF-4 is only 70 feet. Lot area in R-A is a minimum of 2 acres, but in RSF-4 is 8,000 square feet (.18 acres). Staff finds the requested rezoning to be compatible with surrounding land uses and provides opportunities for increased housing opportunities.

Land Use Plan Analysis: Staff finds the proposed rezoning to be consistent with the City's adopted land use plans, including its Future Land Use Map designation as Residential Neighborhood area. A rezoning to RSF-4 could allow for the creation, or maintenance, of residential properties with reduced lot sizes and offer some flexibility in housing types. Staff finds that the requested rezoning could allow for the creation of missing middle housing that meets City Goals 1: We Will Make Appropriate Infill and Revitalization our Highest Priority and 6:

Mailing address:

113 W. Mountain Street
Fayetteville, AR 72701

www.fayetteville-ar.gov

We Will Create Opportunities for Attainable Housing.

CITY PLAN 2040 INFILL MATRIX: City Plan 2040's Infill Matrix indicates a score range of 3 for this site. The following elements of the matrix contribute to the score:

- Adequate Fire Response (Station 3, 1050 S. Happy Hollow Rd.)
- Near Sewer Main (8-inch main, E. Huntsville Rd.)
- Near Water Main (18-inch main, E. Huntsville Rd.)

DISCUSSION:

At the November 25, 2024 Planning Commission meeting, a motion to forward with a recommendation of approval passed with a unanimous vote of 7-0-0. Commissioners did not have any comment on the item. No public comment was offered at the meeting.

BUDGET/STAFF IMPACT:

N/A

ATTACHMENTS: SRF (#3), Exhibit A (#4), Exhibit B (#5), Staff Report (#6)



City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8323

Legislation Text

File #: 2024-0908

RZN-2024-0055: Rezoning (WEST OF 3296 E. HUNTSVILLE RD/PAIR, 528): Submitted by DAVID PAIR for property located WEST OF 3296 E. HUNTSVILLE RD., in WARD 1. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 0.60 acres. The request is to rezone the property to RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE.

AN ORDINANCE TO REZONE THE PROPERTY DESCRIBED IN REZONING PETITION RZN 2024-55 FOR APPROXIMATELY 0.60 ACRES LOCATED WEST OF 3296 EAST HUNTSVILLE ROAD IN WARD 1 FROM R-A, RESIDENTIAL-AGRICULTURAL TO RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby changes the zone classification of the property shown on the map (Exhibit A) and the legal description (Exhibit B) both attached to the Planning Department's Agenda Memo from R-A, Residential-Agricultural to RSF-4, Residential Single-Family, Four Units per Acre.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby amends the official zoning map of the City of Fayetteville to reflect the zoning change provided in Section 1.

City of Fayetteville Staff Review Form

2024-908

Item ID

12/17/2024

City Council Meeting Date - Agenda Item Only
N/A for Non-Agenda Item

Jonathan Curth

11/27/2024

DEVELOPMENT REVIEW (630)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

RZN-2024-0055: Rezoning (WEST OF 3296 E. HUNTSVILLE RD/PAIR, 528): Submitted by DAVID PAIR for property located WEST OF 3296 E. HUNTSVILLE RD., in Ward 1. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 0.60 acres. The request is to rezone the property to RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE.

Budget Impact:

Account Number

Fund

Project Number

Project Title

Budgeted Item? No

Total Amended Budget

\$ -

Expenses (Actual+Encum)

\$ -

Available Budget

\$ -

Does item have a direct cost? No

Item Cost

\$ -

Is a Budget Adjustment attached? No

Budget Adjustment

\$ -

Remaining Budget

\$ -

V20221130

Purchase Order Number:

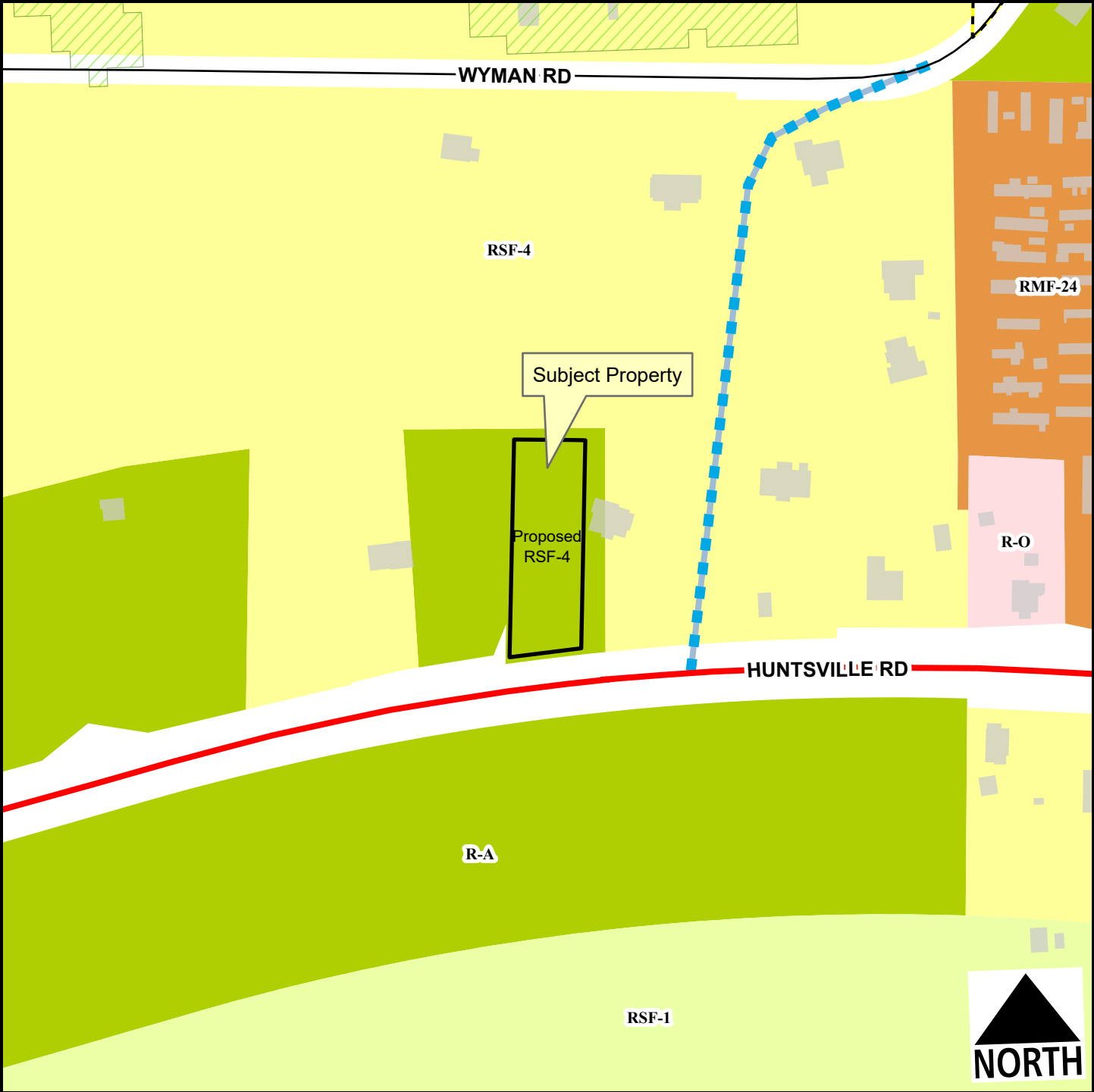
Previous Ordinance or Resolution #

Change Order Number:

Approval Date:

Original Contract Number:

Comments:



Regional Link Residential Link Planned Residential Link Hillside-Hilltop Overlay District Planning Area Fayetteville City Limits	Feet 0 75 150 300 450 600 1:2,400	<table><tr><th><u>Zone</u></th><th><u>Current</u></th><th><u>Proposed</u></th></tr><tr><td>R-A</td><td>0.7</td><td>0.0</td></tr><tr><td>RSF-4</td><td>0.0</td><td>0.7</td></tr><tr><td colspan="2">Total</td><td>0.7 ac</td></tr></table>	<u>Zone</u>	<u>Current</u>	<u>Proposed</u>	R-A	0.7	0.0	RSF-4	0.0	0.7	Total		0.7 ac
<u>Zone</u>	<u>Current</u>	<u>Proposed</u>												
R-A	0.7	0.0												
RSF-4	0.0	0.7												
Total		0.7 ac												

Exhibit 'B'

RZN-2024-0055

COMMENCING AT A FOUND ALUMINUM STATE MONUMENT, MARKING THE SOUTH QUARTER CORNER OF SAID SECTION 13; THENCE ALONG THE SOUTH LINE OF SAID SECTION 13, N87°17'10"W 636.12 FEET; THENCE LEAVING SAID SOUTH LINE, N03°10'05"E 520.78 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING N03°10'05"E 299.52 FEET TO A FOUND 1/2" REBAR; THENCE S87°25'49"E 98.02 FEET TO A FOUND 5/8" REBAR WITH CAP "PLS 1118"; THENCE S03°08'00"W 286.10 FEET; THENCE S84°48'00"W 99.25 FEET TO THE POINT OF BEGINNING. CONTAINING 28,727 SQUARE FEET OR 0.659 ACRES, MORE OR LESS.



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Wesley Frank, Planner

MEETING DATE: November 25, 2024 **Updated with results from November 25, 2024 PC Meeting**

SUBJECT: **RZN-2024-0055: Rezoning (WEST OF 3296 E. HUNTSVILLE RD/PAIR, 528):** Submitted by DAVID PAIR for property located WEST OF 3296 E. HUNTSVILLE RD. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 0.60 acres. The request is to rezone the property to RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE.

RECOMMENDATION:

Staff recommend forwarding **RZN-2024-0055** to City Council with a recommendation of approval.

RECOMMENDED MOTION:

*"I move to forward **RZN-2024-0055** to City Council with a recommendation of approval."*

BACKGROUND:

The subject property is in southeast Fayetteville approximately 0.4 miles east of the intersection of S. Stone Bridge Rd and E. Huntsville Rd. The property contains approximately 0.6 acres and is undeveloped. The property is zoned R-A, Residential-Agricultural which it received in 2003 with the adoption of the new city zoning map. Surrounding land uses and zoning are listed in *Table 1*.

Table 1:
Surrounding Land Uses and Zoning

Direction	Land Use	Zoning
North	Single-Family Residential	RSF-4, Residential Single-Family, 4 Units per Acre
South	Residential/Undeveloped	R-A, Residential-Agricultural
East	Single-Family Residential	RSF-4, Residential Single-Family, 4 Units per Acre
West	Residential/Undeveloped	R-A, Residential-Agricultural

Request: The request is to rezone the subject property from R-A, Residential-Agricultural to RSF-4, Residential Single-Family, Four Units per Acre.

Public Comment: To date, staff have received no public comment.

INFRASTRUCTURE AND ENVIRONMENTAL REVIEW:

Streets: This property has frontage to East Huntsville Road (Arkansas Highway 16), a regional link street with asphalt paving. Currently, the street has one lane in each direction with paved shoulders and open ditches. The Arkansas Department of

the street and providing other infrastructure improvements, including sidewalk, along the property's frontage. Any street improvements required in these areas would be determined at the time of development proposal. Any additional improvements or requirements for drainage will be determined at time of development.

Water: Public water is available to the subject area. There is an 18-inch water main on the north side of East Huntsville Road that can provide water to this property.

Sewer: Sanitary Sewer is available to the subject area. There is an 8-inch sewer main present at the southwest corner of the property.

Drainage: No portion of the subject property lies within the Hillside/Hilltop Overlay District and a small portion of the southern property lies in a FEMA-designated 500-year floodplain. No protected streams or hydric soils are present. Any improvements or requirements for drainage would be determined at the time of development submittal.

Fire: Station 3, located at 1050 S. Happy Hollow Rd., protects this site. The property is located approximately 1.3 miles from the fire station with an anticipated drive time of approximately 3.0 minutes using existing streets. The anticipated response time would be approximately 5.2 minutes. Fire Department response time is calculated based on the drive time plus 1 minute for dispatch and 1.2 minutes for turn-out time. Within the City Limits, the Fayetteville Fire Department has a response time goal of 6 minutes for an engine and 8 minutes for a ladder truck. Fire apparatus access and fire protection water supplies will be reviewed for compliance with the Arkansas Fire Prevention Code at the time of development.

Police: The Police Department did not comment on this request.

Tree Preservation:

The current zoning district of R-A, Residential-Agricultural requires **25% minimum canopy preservation**. The proposed zoning district of RSF-4, Residential Single-Family, Four Units per Acre, requires **25% minimum canopy preservation**.

CITY PLAN 2040 FUTURE LAND USE PLAN: City Plan 2040 Future Land Use Plan designates the property within the proposed rezone as **Residential Neighborhood**.

Residential Neighborhood areas are primarily residential in nature and support a wide variety of housing types of appropriate scale and context. Residential Neighborhood encourages highly connected, compact blocks with gridded street patterns and reduced building setbacks. It also encourages traditional neighborhood development that incorporates low-intensity non-residential uses intended to serve the surrounding neighborhoods. This designation recognizes the existing conventional subdivision developments that may have large blocks with conventional setbacks and development patterns that respond to features of the natural environment.

CITY PLAN 2040 INFILL MATRIX: City Plan 2040's Infill Matrix indicates a score range of 3 for this site with a weighted score of 2.5. The following elements of the matrix contribute to the score:

- Adequate Fire Response (Station 3, 1050 S. Happy Hollow Rd.)
- Near Sewer Main (8-inch main, E. Huntsville Rd.)
- Near Water Main (18-inch main, E. Huntsville Rd.)

FINDINGS OF THE STAFF

1. A determination of the degree to which the proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans.

Finding: ***Land Use Compatibility:*** Staff finds the proposed rezoning from R-A to RSF-4 to be compatible with the surrounding area. The subject property is adjacent to RSF-4-zoned single-family property across E. Huntsville Rd. to the north and east. A rezoning to RSF-4 would allow for the by-right development of single-family dwellings with a density of up to four units per acre. Additional housing options providing increased density are available through conditional use, such as two-family dwellings and cluster housing. R-A and RSF-4 have significantly different bulk and area requirements. Lot width minimum in R-A is 200 feet, but in RSF-4 is only 70 feet. Lot area in R-A is a minimum of 2 acres, but in RSF-4 is 8,000 square feet (.18 acres). Staff finds the requested rezoning to be compatible with surrounding land uses and provides opportunities for increased housing opportunities.

Land Use Plan Analysis: Staff finds the proposed rezoning to be consistent with the City's adopted land use plans, including its Future Land Use Map designation as Residential Neighborhood area. A rezoning to RSF-4 could allow for the creation, or maintenance, of residential properties with reduced lot sizes and offer some flexibility in housing types. Staff finds that the requested rezoning could allow for the creation of missing middle housing that meets City Goals 1: We Will Make Appropriate Infill and Revitalization our Highest Priority and 6: We Will Create Opportunities for Attainable Housing.

2. A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed.

Finding: Staff finds that there is sufficient justification to rezone the property from R-A to RSF-4 since the proposed rezoning would be consistent with the property's future land use designation and supports several goals of City Plan 2040.

3. A determination as to whether the proposed zoning would create or appreciably increase traffic danger and congestion.

Finding: A rezoning from R-A to RSF-4 does have the potential to increase traffic danger and congestion due to increased density and additional curb cuts. Courts have established a precedent that properties with frontage to a public street have a legal right to access the street, therefore additional curb cuts could be added and increase traffic danger and congestion along E. Huntsville Rd. However, 166.08(F)(3)(b) does discourage individual curb cuts and states "curb cuts along regional and neighborhood link streets shall be shared between two (2) or more lots." Access management will be reviewed at the time of development.

4. A determination as to whether the proposed zoning would alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities.

Finding: The proposed rezoning has the potential to alter the population density since it would allow for increased residential development. However, the property currently has access to public streets, water, and sewers, and any necessary improvements would be determined at the time of development. Fayetteville Public Schools did not comment on this request.

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:
- a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;
 - b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: N/A

RECOMMENDATION: Planning staff recommend forwarding RZN-2024-0055 to City Council with a recommendation of approval.

PLANNING COMMISSION ACTION: Required <u>YES</u>			
Date: <u>November 25, 2024</u>	☐ Tabled	☒ Forwarded	☐ Denied
Motion: Garlock			
Second: Werner			
Vote: 7-0-0			

BUDGET/STAFF IMPACT:

None

ATTACHMENTS:

- Unified Development Code
 - §161.03 District R-A, Residential-Agricultural
 - §161.07 District RSF-4, Residential Single-Family, Four (4) Units Per Acre
- Request Letter
- One Mile Map
- Current Map
- Close-Up Map
- Current Land Use Map
- Future Land Use Map

161.03 District R-A, Residential-Agricultural

- (A) *Purposes.* The regulations of the agricultural district are designed to protect agricultural land until an orderly transition to urban development has been accomplished; prevent wasteful scattering of development in rural areas; obtain economy of public funds in the providing of public improvements and services of orderly growth; conserve the tax base; provide opportunity for affordable housing, increase scenic attractiveness; and conserve open space.

- (B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 3	Public protection and utility facilities
Unit 6	Agriculture
Unit 7	Animal husbandry
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 37	Manufactured homes
Unit 41	Accessory dwellings
Unit 43	Animal boarding and training
Unit 46	Short-term rentals

(2) *Conditional Uses.*

Unit 2	City-wide uses by conditional use permit
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 20	Commercial recreation, large sites
Unit 24	Home occupations
Unit 35	Outdoor Music Establishments
Unit 36	Wireless communications facilities
Unit 42	Clean technologies

- (C) *Density.*

Units per acre	One-half (½)
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- (D) *Bulk and Area Regulations.*

Lot width minimum	200 feet
Lot Area Minimum:	
Residential:	2 acres
Nonresidential:	2 acres
Lot area per dwelling unit	2 acres

- (E) *Setback Requirements.*

Front	Side	Rear
35 feet	20 feet	35 feet

- (F) *Height Requirements.* There shall be no maximum height limits in the R-A District, provided, however, if a building exceeds the height of one (1) story, the portion of the building over one (1) story shall have an additional setback from any boundary line of an adjacent residential district. The amount of additional setback for the portion of the building over one (1) story shall be equal to the difference between the total height of that portion of the building and one (1) story.

- (G) *Building area.* None.

161.07 District RSF-4, Residential Single-Family - Four (4) Units Per Acre

(A) *Purpose.* The RSF-4 Residential District is designed to permit and encourage the development of low density detached dwellings in suitable environments, as well as to protect existing development of these types.

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 41	Accessory dwellings
Unit 46	Short-term rentals

(2) *Conditional Uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 9	Two-family dwellings
Unit 12a	Limited business
Unit 24	Home occupations
Unit 36	Wireless communications facilities
Unit 44	Cluster Housing Development

(C) *Density.*

	Single-family dwellings	Two (2) family dwellings
Units per acre	4 or less	7 or less

(D) *Bulk and Area Regulations.*

	Single-family dwellings	Two (2) family dwellings
Lot minimum width	70 feet	80 feet
Lot area minimum	8,000 square feet	12,000 square feet
Land area per dwelling unit	8,000 square feet	6,000 square feet
Hillside Overlay District Lot minimum width	60 feet	70 feet
Hillside Overlay District Lot area minimum	8,000 square feet	12,000 square feet
Land area per dwelling unit	8,000 square feet	6,000 square feet

(E) *Setback Requirements.*

Front	Side	Rear
15 feet	5 feet	15 feet

(F) *Building Height Regulations.*

Building Height Maximum	3 stories
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(G) *Building Area.* On any lot the area occupied by all buildings shall not exceed 40% of the total area of such lot. Accessory ground mounted solar energy systems shall not be considered buildings.

City of Fayetteville Planning Division
125 West Mountain Street
Fayetteville, AR 72701
479.575.8267

Reference Parcel ID# - 765-02282-000

To Whom it may Concern,

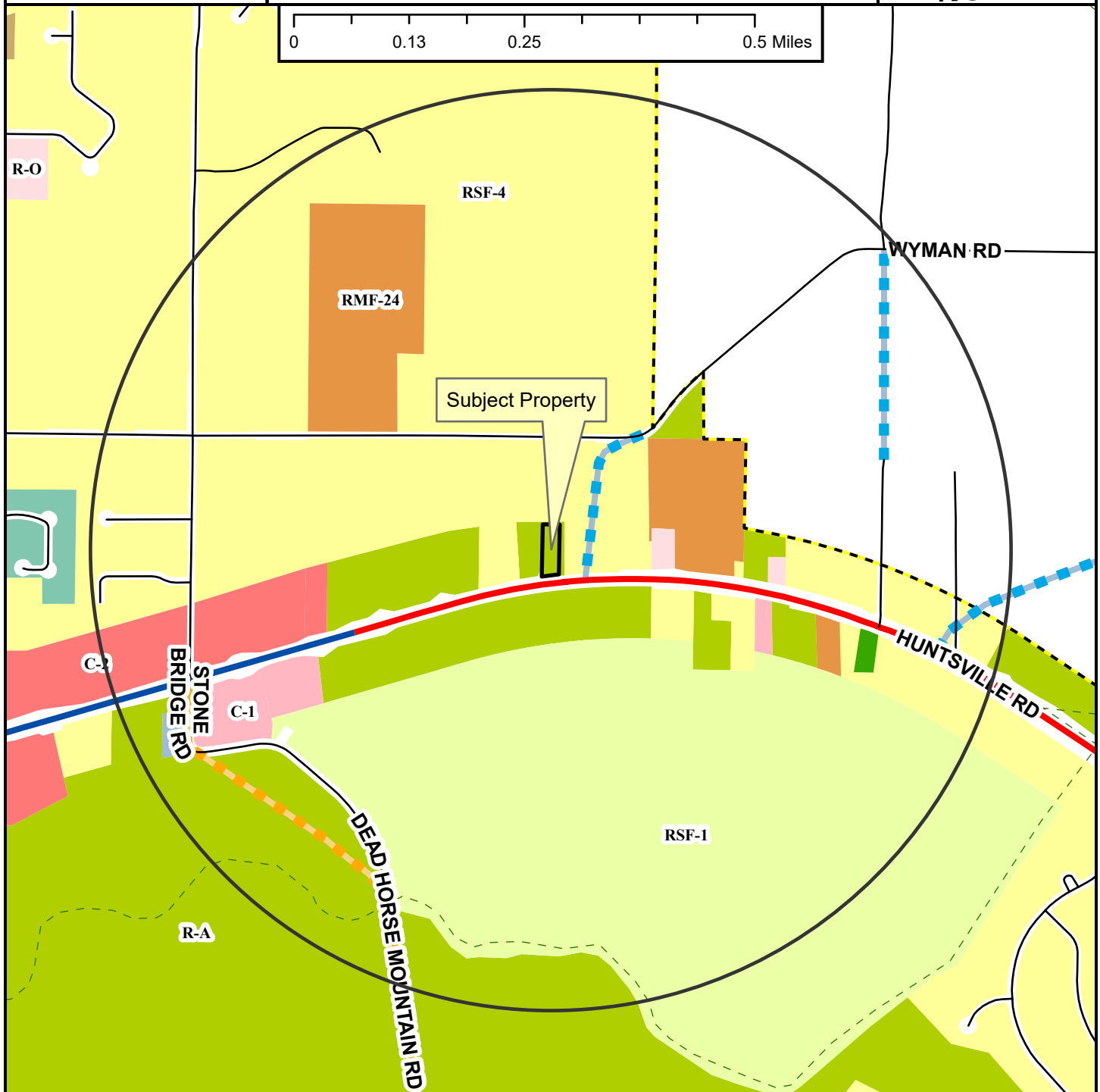
This letter is to ask for a rezoning of the above referenced parcel from Residential/Agricultural (R-A) to Residential Single Family 4 (RSF-4). This parcel is surrounded by RSF-4 zoned area and would not impact development whatsoever if re-zoned. We are currently in the process of selling the parcel, but potential clients would like the ability to build a house on this lot. Please take this into consideration when making a decision to rezone this parcel. Thanks

David Pair
paircpa@yahoo.com
(303) 905-1583

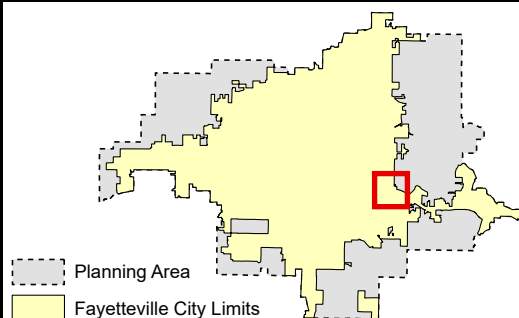
RZN-2024-0055

RZN-2024-0055

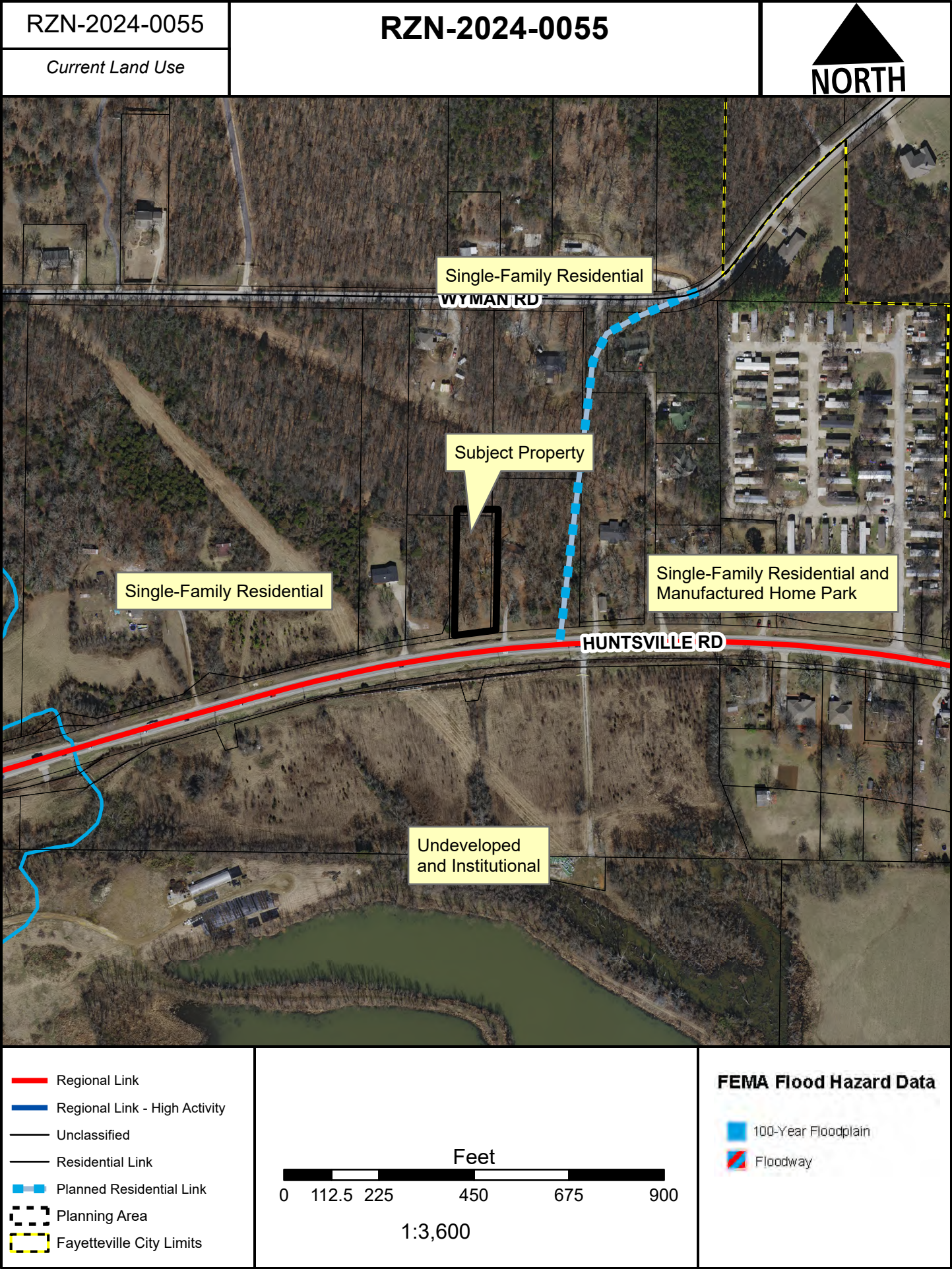
One Mile View



-  Regional Link
-  Neighborhood Link
-  Regional Link - High Activity
-  Unclassified
-  Residential Link
-  Planned Neighborhood Link
-  Trail Residential Link
-  Trail (Proposed)
-  Fayetteville City Limits
-  Planning Area



-
- Zoning**
- I-2 General Industrial
 - E-1
 - COMMERCIAL**
 - Residential-Office
 - C-1
 - C-2
 - C-3
- FORM BASED DISTRICTS**
- Downtown Core
 - Urban Thoroughfare
 - Main Street Center
 - Downtown General
 - Community Services
 - Neighborhood Services
 - Neighborhood Conservation
- PLANNED ZONING DISTRICTS**
- Commercial, Industrial, Residential
- INSTITUTIONAL**
- P-1
- RESIDENTIAL SINGLE-FAMILY**
- NS-G
 - RI-U
 - RI-12
 - NS-L
 - Residential-Agricultural
 - RSF-5
 - RSF-1
 - RSF-2
 - RSF-4
 - RSF-7
 - RSF-8
 - RSF-18
- RESIDENTIAL MULTI-FAMILY**
- RMF-6
 - RMF-12
 - RMF-18
 - RMF-24
 - RMF-40
- INDUSTRIAL**
- I-1 Heavy Commercial and Light Industrial



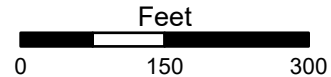


RZN-2024-0055

The request is to
rezone the property
to RSF-4,
**RESIDENTIAL
SINGLE-FAMILY,
FOUR UNITS PER
ACRE.**

Legend

 Fayetteville City Limits



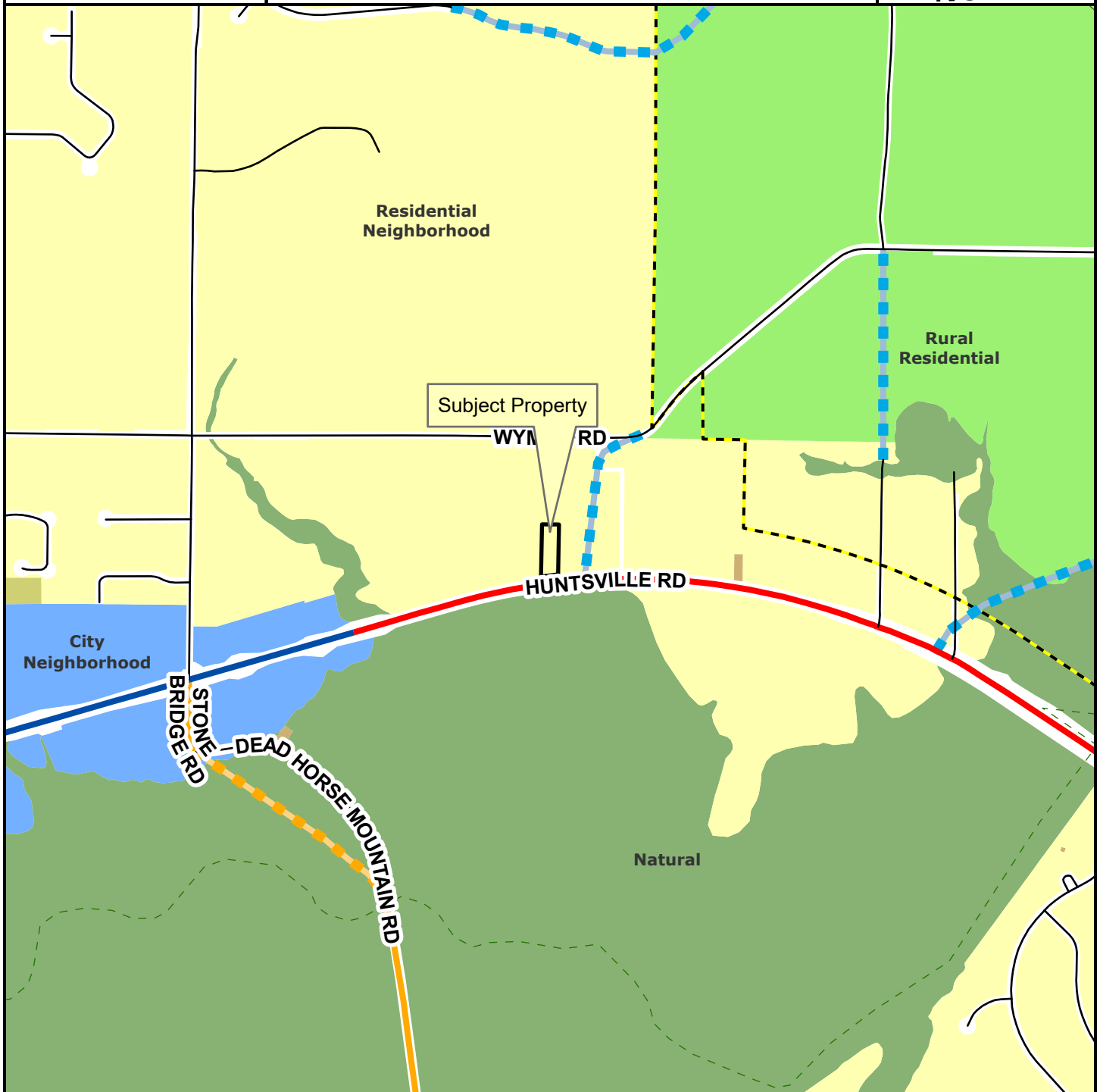
Planning Commission
November 25, 2024
RZN-2024-0055 (P)



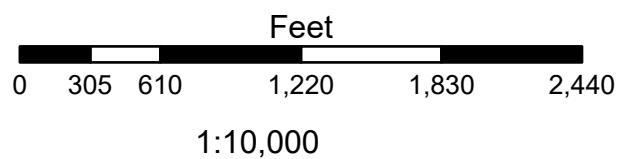
RZN-2024-0055

RZN-2024-0055

Future Land Use



- Regional Link
- Neighborhood Link
- Regional Link - High Activity
- Unclassified
- Residential Link
- Planned Neighborhood Link
- Planned Residential Link
- Planning Area
- Fayetteville City Limits
- Trail (Proposed)



- City Neighborhood
- Civic Institutional
- Civic and Private Open Space
- Industrial
- Natural
- Non-Municipal Government
- Residential Neighborhood
- Rural Residential
- Urban Center



MEETING OF DECEMBER 17, 2024

TO: Mayor Jordan and City Council
THRU: Kit Williams, City Attorney
FROM: Scott Berna, City Council Member - Ward 3 Position 1
SUBJECT: **AN ORDINANCE TO AUTHORIZE PAYMENT OF SURVIVAL SPOUSAL BENEFITS**

RECOMMENDATION:

BACKGROUND:

Lioneld Jordan was first elected to the City Council in 2000 and began his service in January of 2001. Council Member Jordan was reelected to a second term which began in 2005. Mayor Jordan was elected Mayor and began his first term in 2009. Mayor Jordan was reelected three more times and will end his service to Fayetteville as by far the longest serving mayor in Fayetteville's history with sixteen (16) years of continued service as Mayor. Mayor Jordan's continued service as either Council Member or Mayor totals twenty-four (24) years. Mayor Jordan's wife, Diana, has faithfully assisted him throughout those 24 years of his service and has also accompanied him to an amazing number of banquets, receptions, and other City functions.

DISCUSSION:

It is proper and appropriate to authorize and grant the right to the spousal survival benefits of 50% of the Mayor's retirement benefits pursuant to A.C.A. § 24-12-123 (b) to Mrs. Diana Jordan. It is also proper and appropriate to authorize the statutorily authorized cost-of-living benefit increase not to exceed three percent (3%).

BUDGET/STAFF IMPACT:

ATTACHMENTS: Retirement Benefit for Mayors - Memo (#3), A.C.A. 14-42-117 (#4), A.C.A. 24-12-123 (#5), Agenda Request (#6)



City of Fayetteville, Arkansas

113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8323

Legislation Text

File #: 2024-0963

AN ORDINANCE TO AUTHORIZE PAYMENT OF SURVIVAL SPOUSAL BENEFITS

AN ORDINANCE TO AUTHORIZE PAYMENT OF SURVIVAL SPOUSAL BENEFITS OF 50% OF MAYOR JORDAN'S STATUTORY RETIREMENT BENEFITS TO MRS. DIANA JORDAN AND TO GRANT AN ANNUAL COST-OF-LIVING BENEFIT INCREASE UP TO 3%

WHEREAS, Lioneld Jordan was first elected to the City Council in 2000 and began his service in January of 2001; and

WHEREAS, Council Member Jordan was reelected to a second term which began in 2005; and

WHEREAS, Mayor Jordan was elected Mayor and began his first term in 2009; and

WHEREAS, Mayor Jordan was reelected three more times and will end his service to Fayetteville as by far the longest serving mayor in Fayetteville's history with sixteen (16) years of continued service as Mayor; and

WHEREAS, Mayor Jordan's continued service as either Council Member or Mayor totals twenty-four (24) years; and

WHEREAS, Mayor Jordan's wife, Diana, has faithfully assisted him throughout those 24 years of his service and has also accompanied him to an amazing number of banquets, receptions, and other City functions; and

WHEREAS, it is proper and appropriate to authorize and grant the right to the spousal survival benefits of 50% of the Mayor's retirement benefits pursuant to A.C.A. § 24-12-123 (b) to Mrs. Diana Jordan; and

WHEREAS, it is also proper and appropriate to authorize the statutorily authorized cost-of-living benefit increase not to exceed three percent (3%).

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby authorizes the right to surviving spousal benefits to Mrs. Diana Jordan in accordance with the requirements of A.C.A. § 24-12-123 (b).

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby authorizes an annual cost-of-living increase in Mayor Jordan's retirement benefits of up to three percent (3%) or the Consumer Price Index (whichever is lower) pursuant to § 24-12-123 (b)(5).



OFFICE OF THE
CITY ATTORNEY

DEPARTMENTAL CORRESPONDENCE



Kit Williams
City Attorney

Blake Pennington
Senior Assistant City Attorney

Hannah Hungate
Assistant City Attorney

Stacy Barnes
Paralegal

TO: **Mayor Jordan**

CC: **Paul Becker**, Chief Financial Officer
Missy Hutcheson, Human Resources Director
Michele Bechhold, Assistant HR Director

FROM: **Kit Williams**, City Attorney

DATE: **December 9, 2024**

RE: **Retirement Benefits for Mayors**

Council Members Mike Wiederkehr and Scott Berna have requested that I draft an ordinance to provide potential survivor's benefits to Mrs. Diane Jordan if Mayor Jordan decides to take his statutorily authorized Mayor's pension. Attached is the ordinance that they are sponsoring for the December 17th Agenda. The following is my legal analysis of Mayor Jordan's options and the City Council options to provide a survivor's benefit as well as potential cost-of-living annual increases not to exceed three percent (3%).

A.C.A. § 24-12-123 **Mayors of cities of the first class** provides: "any person who shall serve as mayor of the city for a period of not less than ten (10) years, upon reaching age sixty (60) ... shall be entitled to retire at an annual retirement benefit the remainder of the person's natural life, payable at the rate of one-half (1/2) of the person's mayoral salary at the completion of his or her last term as mayor."

No action by the City Council is needed for Mayor Jordan to receive this earned retirement benefit. However, the City Council is entitled to (at their sole discretion) increase this retirement benefit for a "cost of living increase of up to three percent (3%) ..." for the second and later years after the mayor's retirement.

The City Council also may in its sole discretion pass an ordinance that would authorize a payment to the Mayor's widow of one half of the Mayor's retirement benefit after his death. The widow's benefit would be one quarter of

the Mayor's ending salary (plus any cost of living adjustments if also authorized).

Both the cost of living and survivor's benefit are only available if the City Council passes an ordinance to authorize those benefits.

A.C.A. § 14-42-117 **Election of retirement benefits** states an elected city official entitled to retirements by state law (A.C.A. § 24-12-123) "and who also participates in another retirement plan established by the city ... shall only be entitled to only (1) retirement benefit..." Thus, I believe that the City paid 401 retirement plan cannot be claimed or used by the elected city official without forfeiting his or her right to receive the statutory retirement benefits granted by A.C.A. § 24-12-123.

On the other hand, the Mayor's investment of his own funds into his own personal 457 Plan (also administered by the Bank of Oklahoma) should not affect his entitlement to the statutory retirement of A.C.A. § 24-12-123.

CONCLUSION

Mayor Jordan is eligible to receive the statutory Mayor's pension at half his ending salary for life without any action needed by the City Council.

The City Council could, by ordinance, authorize widow benefits of 50% of the Mayor's pension upon his death.

The City Council could, by ordinance, authorize a yearly three percent (3%) or less cost of living increase in his pension benefits.

The Mayor should be able to withdraw some or all of his **457**-retirement account which was funded **solely from his own money** without losing his pension.

The Mayor cannot withdraw any money from the **City financed 401** retirement account without forfeiting his statutory mayor's pension.

A.C.A. § 14-42-117

Current through all legislation of the 2024 Fiscal Session and the Second Extraordinary Session (2024)

AR - Arkansas Code Annotated > Title 14 Local Government > Subtitle 3. Municipal Government > Chapter 42 Government Of Municipalities Generally > Subchapter 1 — General Provisions

14-42-117. Election of retirement benefits.

Notwithstanding any other law to the contrary, any employee of a city of the first class, city of the second class, or incorporated town, and any elected official of a city of the first class, city of the second class, or incorporated town who is entitled by an act of the General Assembly to retirement benefits for service as such an employee or elected official and who also participates in another retirement plan established by the city for the same period of service shall be entitled to only one (1) retirement benefit for the same period of service to the municipality, provided that no elected official may withdraw in a lump sum or roll over into a private account any accumulated benefits established by the municipality for which the official was employed and at the same time receive a pension as provided for under an act of the General Assembly, and the employee or elected official may choose whether to receive the retirement benefit provided by law or provided by the plan offered by the municipality.

History

Acts 1989, No. 723, § 1; 1991, No. 604, § 1.

Annotations

Case Notes

Constitutionality.

Construction With Other Laws.

Constitutionality.

There was no violation of the prohibition against ex post facto laws in the application of § 14-42-117 to a man whose right to retirement benefits did not vest prior to the enactment of the statute. Robinson v. Taylor, 342 Ark. 459, 29 S.W.3d 691 (2000)

A.C.A. § 24-12-123

Current through all legislation of the 2024 Fiscal Session and the Second Extraordinary Session (2024)

AR - Arkansas Code Annotated > Title 24 Retirement and Pensions > Chapter 12 Local Officers and Employees — Miscellaneous Provisions > Subchapter 1 — General Provisions

24-12-123. Mayors of cities of the first class.

(a)

(1)

(A) In all cities of the first class in this state, any person who shall serve as mayor of the city for a period of not less than ten (10) years, upon reaching sixty (60) years of age, or any person who shall serve as mayor of the city for a period of not less than twenty (20) years, without regard to age, shall be entitled to retire at an annual retirement benefit during the remainder of the person's natural life, payable at the rate of one-half ($\frac{1}{2}$) of the person's mayoral salary at the completion of his or her last term as mayor.

(B) The governing body of the city may provide by ordinance that any person who has served as mayor for a period of not less than ten (10) years may retire upon reaching fifty-five (55) years of age with the benefits provided under this section.

(2) The retirement payments shall be paid monthly and shall be paid from the city general fund.

(3) However, a mayor who has served as an elected official or employee of that city prior to or after the person's service as mayor shall count his or her service as an elected official or employee of that city towards the mayor's retirement as follows:

(A) At the rate of one (1) year of a mayor's retirement for each two (2) years served as an elected official or an employee of that city up to a maximum of an additional two (2) years' credit towards a mayor's retirement benefit;

(B) If authorized by a city ordinance, at the rate of one (1) year of a mayor's retirement benefit for each two (2) years served as an elected official or an employee of that city up to a maximum of three (3) additional years' credit towards a mayor's retirement benefit if the person has not fewer than twenty (20) years of mayor's credit and is at least fifty-two (52) years of age; or

(C) If authorized by a city ordinance, at the rate of one (1) year of a mayor's retirement benefit for each two (2) years served as an elected official or an employee of that city up to a maximum of four (4) additional years' credit towards a mayor's retirement benefit if the person has not fewer than twenty (20) years of mayor's credit and is at least fifty-four (54) years of age.

(4) The minimum retirement benefits shall be two hundred fifty dollars (\$250) per month for both salaried and nonsalaried mayors.

(5) On January 1 of each year, if a retiree under this section has been retired for at least twelve (12) full months, a cost-of-living increase of up to three percent (3%) will be added.

(6) Subdivision (a)(5) of this section applies only if approved by the governing body of the city.

(b)

(1) On the death of any mayor retired under the provisions of subsection (a) of this section or any other acts of the General Assembly, or any mayor who dies in office after becoming eligible to retire under subsection (a) of this section or any other acts of the General Assembly, the spouse of the mayor

A.C.A. § 24-12-123

married to the mayor for ten (10) years or longer may, at the option of the governing body of the city, receive one-half ($\frac{1}{2}$) of the retirement benefit the retired mayor was receiving or one-half ($\frac{1}{2}$) of the retirement benefit the mayor who died in office was entitled to receive.

(2) However, upon remarriage of the spouse, the benefits shall cease.

(3) The provisions of this subsection are retroactive to November 1, 1983, at the sole discretion of the governing body of the city.

(c) Any mayor retired prior to July 20, 1987, and receiving benefits under prior acts of the General Assembly shall be entitled to continue receiving benefits under the prior acts.

(d) By January 31 of each year in which a petition for election to the office of mayor may be filed, the governing body of the city may by ordinance vote to decrease a benefit available under this section if:

(1) An actuarial study supports the need to lower a benefit available under this section;

(2) The actuarial study supporting the need to lower a benefit available under this section is attached as an exhibit to the ordinance;

(3) The benefit available under this section is not decreased to an amount that is less than two hundred fifty dollars (\$250);

(4) The ordinance does not apply to a person who:

(A) Serves as mayor before December 31, 2022;

(B) Served or is serving as mayor at the time an ordinance decreasing a benefit available under this section is effective; or

(C) Filed or has filed for election to the office of mayor at the time an ordinance decreasing a benefit available under this section is effective; and

(5) The decrease of a benefit available under this section does not apply retroactively.

(e) Under § 14-42-117, a mayor who receives a retirement benefit from a city under this section shall not be entitled to any retirement benefit based upon service for the same period from any other state authorized plan.

History

Acts 1987, No. 414, §§ 1-3; 1997, No. 212, § 1; 2001, No. 1615, § 1; 2001, No. 1700, § 1; 2007, No. 293, § 2; 2019, No. 948, § 1; 2023, No. 496, §§ 1, 2.

Annotations

Notes

Publisher's Notes.

Former § 24-12-123, concerning retirement of mayors of cities of the first class, was repealed by Acts 1987, No. 414, § 4. The former section was derived from Acts 1985, No. 305, §§ 1-3.

AGENDA REQUEST FORM

FOR: Council Meeting of December 17, 2024

FROM: Council Members Mike Wiederkehr and Scott Berna

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

AN ORDINANCE TO AUTHORIZE PAYMENT OF SURVIVAL SPOUSAL BENEFITS OF 50% OF MAYOR JORDAN'S STATUTORY RETIRMENT BENEFITS TO MRS. DIANA JORDAN AND TO GRANT AN ANNUAL COST-OF-LIVING BENEFIT INCREASE UP TO 3%

APPROVED FOR AGENDA:

Aproved via email

Scott Berna
City Council Member

12/6/24

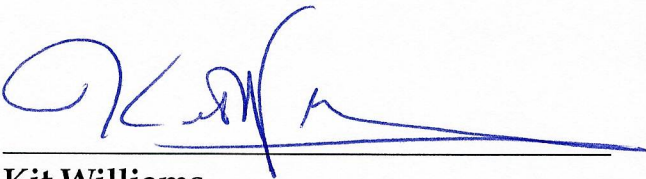
Date

Aproved via email

Mike Wiederkehr
City Council Member

12/6/24

Date



Kit Williams
Approved as to form

12-6-24

Date

Williams, Kit

From: Wiederkehr, Mike
Sent: Friday, December 6, 2024 11:38 AM
To: Williams, Kit
Cc: Berna, Scott; Hertzberg, Holly
Subject: Re: Mayor's Retirement Benefit

Hi Kit,
Scott and I will be the sponsors.
Holly is fully supportive but will not be able to attend the meeting.
Mike
PS. We love you Holly.

> On Dec 6, 2024, at 9:04 AM, Williams, Kit <kwilliams@fayetteville-ar.gov> wrote:

>
> I should note that there could be more than one sponsor of the ordinance.
> Kit

> -----Original Message-----

> From: Berna, Scott <scott.berna@fayetteville-ar.gov>
> Sent: Thursday, December 5, 2024 6:18 PM
> To: Wiederkehr, Mike <mike.wiederkehr@fayetteville-ar.gov>
> Cc: Hertzberg, Holly <holly.hertzberg@fayetteville-ar.gov>; Williams, Kit <kwilliams@fayetteville-ar.gov>; Hertzberg, Holly <holly.hertzberg@fayetteville-ar.gov>; Williams, Kit <kwilliams@fayetteville-ar.gov>
> Subject: Re: Mayor's Retirement Benefit

> I would certainly agree to do it but would stand down for either of you that wants to take the lead.

> Scott Berna
> Ward 3 Position 1
> Fayetteville City Council

>> On Dec 5, 2024, at 5:58 PM, Wiederkehr, Mike <mike.wiederkehr@fayetteville-ar.gov> wrote:

>> Dear Holly & Scott,

>> I ran into Kit when I stopped by city hall to just say hi to folks, and he explained, just as his email says, that the Mayor can choose his government funded 401 account OR a government funded pension, but not both. And that there is no survivor retirement benefit for a surviving widow unless Council were to pass an ordinance establishing such a benefit, which would mean that Mrs. Jordan would be eligible for 50% of any benefit the Mayor would receive, if she survived him.

>> In light of Lioneld's long service to our community, which most certainly included sacrifices by his wife, I am inclined to support the creation of a survivor benefit, and if I was Lioneld, my decision on which benefit to take would likewise depend on whether or not my spouse had such a benefit, and secondly, whether it could respond to inflation.

>> I am not asking you how you might vote on such an ordinance, or even to support such an ordinance, but rather, I am respectfully asking if you wished to be the sponsor of such an ordinance. I would be happy to sponsor, but Holly, it

would make a lovely last meeting gesture if you'd feel so inclined, and Scott, I think the world of you two people and would never want to steal your thunder.

>>

>> Kit, it is safe for you to go ahead and prepare an ordinance for someone to sponsor, and please include a clause for a 2% or 3% annual COLA adjustment. I just don't know how Arkansas handles it - would it be automatic regardless of CPI, or variable, as in some percent to match CPI up to 3%. You will know how best to propose such a thing.

>>

>> All the best,

>> Mike

>>

>>> On Dec 5, 2024, at 4:00 PM, Williams, Kit <kwilliams@fayetteville-ar.gov> wrote:

>>>

>>> Mike,

>>> Hiring, firing, and replacing executive directors of the A & P Commission is totally the purview of the A & P Commissioners. The City has no control although two Commissioners are Council Members who do have the right to participate and vote on the selection of any replacement.

>>> On another note, Mayor Jordan who is by far the longest serving Mayor of Fayetteville is needing to decide whether take the statutory pension for Mayors with at least 10 years of service or take the amount of City financed 401 retirement that he has built up over the 16 years of his service. Please see attached my memo explaining his rights. It is totally up to the City Council whether or not to provide 50% of his retirement benefits to his widow upon his death. The Council could also authorize an annual 3% (or less) increases in his pension benefits as a cost of living adjustment.

>>> An ordinance to provide these increased benefits would need to be done at the next meeting since the Mayor must make his election between the statutory pension or the City's 401 account before the end of the year.

>>> If you do not want to sponsor any authorizing ordinance, then you need do nothing. If anyone would like to propose these increased benefits (which would be paid out of the General Fund), then let me know and I will draft the appropriate ordinance.

>>> Thanks,

>>> Kit

>>> -----Original Message-----

>>> From: Wiederkehr, Mike <mike.wiederkehr@fayetteville-ar.gov>

>>> Sent: Thursday, December 5, 2024 11:15 AM

>>> To: Williams, Kit <kwilliams@fayetteville-ar.gov>

>>> Subject: A&P Commission

>>>

>>> Dear Kit,

>>>

>>> This morning I was asked how Molly Rawn's position in the A&P body would be filled once she becomes the Mayor. I have no clue. Please advise.

>>>

>>> Thank you,

>>> Mike

>>> <Retirement Benefits for Mayors.pdf>

>>

ORDINANCE NO. _____

AN ORDINANCE TO AUTHORIZE PAYMENT OF SURVIVAL SPOUSAL BENEFITS OF 50% OF MAYOR JORDAN'S STATUTORY RETIRMENT BENEFITS TO MRS. DIANA JORDAN AND TO GRANT AN ANNUAL COST-OF-LIVING BENEFIT INCREASE UP TO 3%

WHEREAS, Lioneld Jordan was first elected to the City Council in 2000 and began his service in January of 2001; and

WHEREAS, Council Member Jordan was reelected to a second term which began in 2005; and

WHEREAS, Mayor Jordan was elected Mayor and began his first term in 2009; and

WHEREAS, Mayor Jordan was reelected three more times and will end his service to Fayetteville as by far the longest serving mayor in Fayetteville's history with sixteen (16) years of continued service as Mayor; and

WHEREAS, Mayor Jordan's continued service as either Council Member or Mayor totals twenty-four (24) years; and

WHEREAS, Mayor Jordan's wife, Diana, has faithfully assisted him throughout those 24 years of his service and has also accompanied him to an amazing number of banquets, receptions, and other City functions; and

WHEREAS, it is proper and appropriate to authorize and grant the right to the spousal survival benefits of 50% of the Mayor's retirement benefits pursuant to A.C.A. § 24-12-123 (b) to Mrs. Diana Jordan; and

WHEREAS, it is also proper and appropriate to authorize the statutorily authorized cost-of-living benefit increase not to exceed three percent (3%).

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby authorizes the right to surviving spousal benefits to Mrs. Diana Jordan in accordance with the requirements of A.C.A. § 24-12-123 (b).

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby authorizes an annual cost-of-living increase in Mayor Jordan's retirement benefits of up to three percent (3%) or the Consumer Price Index (whichever is lower) pursuant to § 24-12-123 (b)(5).

PASSED and APPROVED this 17th day of December, 2024.