

City of Fayetteville, Arkansas

113 West Mountain Street

Fayetteville, AR 72701

(479) 575-8323



City Council Final Agenda

Tuesday, March 21, 2023

5:30 PM

City Hall Room 219

City Council Members

Council Member Sonia Harvey Ward 1

Council Member 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

ZOOM INFORMATION:

1. **WEBINAR: 830 4376 0393**
PUBLIC REGISTRATION LINK:
[HTTPS://US06WEB.ZOOM.US/WEBINAR/REGISTER/
WN_BOQPNCQST4WGZEDLKNZV0W](https://us06web.zoom.us/join/9tJfmo9vWa6)

CALL TO ORDER**ROLL CALL****PLEDGE OF ALLEGIANCE****MAYOR' S ANNOUNCEMENTS, PROCLAMATIONS AND RECOGNITIONS****CITY COUNCIL MEETING PRESENTATIONS, REPORTS AND DISCUSSION ITEMS**

1. **NOMINATING COMMITTEE REPORT (2023-577)**

PROPOSED AGENDA ADDITIONS**A. CONSENT**

- A.1. APPROVAL OF THE MARCH 7, 2023 CITY COUNCIL MEETING MINUTES**
(2022-316)

A.2. TREE ESCROW PAYMENTS:

A RESOLUTION TO APPROVE A BUDGET ADJUSTMENT IN THE TOTAL AMOUNT OF \$101,992.00 TO TRANSFER A TREE ESCROW BALANCE FOR THE PLANTING OF MITIGATION TREES IN VARIOUS LOCATIONS THROUGHOUT THE CITY OF FAYETTEVILLE (2023-438)

A.3. G.W. VAN KEPPEL COMPANY:

A RESOLUTION TO AUTHORIZE THE PURCHASE OF A STREET SWEEPER/BROOM FROM G.W. VAN KEPPEL COMPANY FOR THE AMOUNT OF \$66,877.00 PLUS ANY APPLICABLE TAXES AND FREIGHT CHARGES, PURSUANT TO A SOURCEWELL COOPERATIVE PURCHASING CONTRACT (2023-474)

A.4. LEWIS FORD OF FAYETTEVILLE:

A RESOLUTION TO APPROVE THE PURCHASE OF FIVE FORD VEHICLES

FROM LEWIS FORD OF FAYETTEVILLE IN THE TOTAL AMOUNT OF \$191,058.00, PURSUANT TO A STATE PROCUREMENT CONTRACT, AND TO APPROVE A BUDGET ADJUSTMENT (2023-426)

A.5. PETROLEUM TRADERS CORPORATION:

A RESOLUTION TO AWARD BID #23-18 AND APPROVE A ONE YEAR CONTRACT WITH PETROLEUM TRADERS CORPORATION FOR BULK FUEL PURCHASES WITH AUTOMATIC RENEWALS FOR UP TO FOUR ADDITIONAL ONE YEAR TERMS (2023-495)

A.6. DONATION REVENUE FROM FRIENDS OF YRCC:

A RESOLUTION TO APPROVE A BUDGET ADJUSTMENT IN THE AMOUNT OF \$22,126.00 REPRESENTING DONATION REVENUE FROM FRIENDS OF YRCC TO FUND THE 2023 PROGRAMS OFFERED AT THE YVONNE RICHARDSON COMMUNITY CENTER (2023-501)

A.7. RFP 22-11, RAY KLEIN, INC:

A RESOLUTION TO AWARD RFP 22-11 AND AUTHORIZE A ONE YEAR CONTRACT WITH RAY KLEIN, INC. D/B/A PROFESSIONAL CREDIT SERVICE FOR ACCOUNT COLLECTION SERVICES WITH AUTOMATIC RENEWALS FOR UP TO FOUR (4) ADDITIONAL ONE YEAR TERMS (2023-510)

A.8. SURFCO RESTORATION & CONSTRUCTION, LLC:

A RESOLUTION TO APPROVE A THREE YEAR LEASE AGREEMENT WITH SURFCO RESTORATION AND CONSTRUCTION, LLC FOR OFFICE SPACE IN THE AIRPORT TERMINAL BUILDING AT 4500 SOUTH SCHOOL AVENUE FOR RENT IN THE AMOUNT OF \$1,000.00 PER MONTH (2023-481)

A.9. AMENDMENT 3, HAWKINS WEIR ENGINEERS, INC.:

A RESOLUTION TO APPROVE AMENDMENT NO. 3 TO THE PROFESSIONAL ENGINEERING SERVICES AGREEMENT WITH HAWKINS-WEIR ENGINEERS, INC. IN THE AMOUNT OF \$80,660.00 FOR ADDITIONAL SERVICES ASSOCIATED WITH THE PROJECT TO ALLEVIATE FLOODING NEAR THE NORTH COLLEGE AVENUE AND EAST SUNBRIDGE DRIVE INTERSECTION, AND TO APPROVE A BUDGET ADJUSTMENT– 2019 DRAINAGE BOND PROJECT (2023-497)

**A.10. CONSTRUCTION MANAGER AT RISK SERVICES CONTRACT WITH
CROSSLAND HEAVY CONTRACTORS:**

A RESOLUTION TO AUTHORIZE A CONSTRUCTION MANAGER AT RISK SERVICES CONTRACT WITH CROSSLAND HEAVY CONTRACTORS, INC., IN AN AMOUNT NOT TO EXCEED \$38,950.00, PURSUANT TO RFQ 23-02, FOR THE LAKE FAYETTEVILLE SOFTBALL IMPROVEMENT PROJECT (2023-507)

A.11. 2023 JUSTICE ASSISTANCE GRANT (JAG) AWARD:

A RESOLUTION TO AUTHORIZE ACCEPTANCE OF THE 2023 JUSTICE ASSISTANCE GRANT AWARD IN THE AMOUNT OF \$124,499.00 TO PROVIDE FUNDING FOR THE FOURTH JUDICIAL DISTRICT DRUG TASK FORCE (2023-435)

A.12. FAYETTEVILLE ADVERTISING & PROMOTION COMMISSION:

A RESOLUTION TO APPROVE A 10 YEAR LEASE AGREEMENT WITH THE FAYETTEVILLE ADVERTISING AND PROMOTION COMMISSION FOR THE TOWN CENTER AND TOWN CENTER PARKING DECK (2023-499)

A.13. TITAN LAWN AND LANDSCAPE CONTRACT AMENDMENT:

A RESOLUTION TO APPROVE AN AMENDMENT TO THE CONTRACT WITH TITAN LAWN AND LANDSCAPE, LLC IN AN ADDITIONAL AMOUNT NOT TO EXCEED \$150,000.00 TO PROVIDE TRASH AND REMOVAL SERVICES FROM UNSANCTIONED CAMP SITES ON CITY PROPERTY ALONG THE TRAIL SYSTEM AND ADJACENT PROPERTIES AS NEEDED, AND TO APPROVE A BUDGET ADJUSTMENT. (2023-545)

B. UNFINISHED BUSINESS**B.1. RZN 23-002: (SE OF N. GREGG AVE AND W. ELM ST/LEGACY VENTURES LLC, 367):**

AN ORDINANCE TO REZONE THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 23-002 LOCATED SOUTHEAST OF NORTH GREGG AVENUE AND WEST ELM STREET IN WARD 2 FOR APPROXIMATELY 1.71 ACRES FROM RSF-4, RESIDENTIAL SINGLE FAMILY, 4 UNITS PER ACRE TO RI-12, RESIDENTIAL INTERMEDIATE, 12 UNITS PER ACRE AND RI-U, RESIDENTIAL INTERMEDIATE-URBAN (2023-450)

AT THE MARCH 7, 2023 CITY COUNCIL MEETING, THIS ORDINANCE WAS LEFT ON THE FIRST READING.

C. NEW BUSINESS**C.1. FAYETTEVILLE FIRE DEPARTMENT INCENTIVE PLAN:**

A RESOLUTION TO APPROVE THE FIRE DEPARTMENT INCENTIVE PLAN, AND TO APPROVE A BUDGET ADJUSTMENT (2023-503)

C.2. RZN 23-003 (1275 N. GREGG AVE/PATHWAY BAPTIST CHURCH, 405):

AN ORDINANCE TO REZONE THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 23-003 LOCATED AT 1275 NORTH GREGG AVENUE IN WARD 2 FOR APPROXIMATELY 2.24 ACRES FROM RMF-24, RESIDENTIAL

MULTI-FAMILY, 24 UNITS PER ACRE TO RMF-40, RESIDENTIAL MULTI-FAMILY, 40 UNITS PER ACRE (2023-500)

C.3. RZN 23-004 (2910 N. OLD WIRE RD. / VAN SCYOC, 255):

AN ORDINANCE TO REZONE THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 23-004 LOCATED AT 2910 NORTH OLD WIRE ROAD IN WARD 3 FOR APPROXIMATELY 14.70 ACRES FROM RSF-4, RESIDENTIAL SINGLE-FAMILY, 4 UNITS PER ACRE AND R-A, RESIDENTIAL AGRICULTURE TO R-A, RESIDENTIAL AGRICULTURE AND NC, NEIGHBORHOOD CONSERVATION (2023-502)

D. CITY COUNCIL AGENDA SESSION PRESENTATIONS

D.1. DEPARTMENT OF ECONOMIC VITALITY UPDATE - DEVIN HOWLAND

(2023-407)

D.2. UPDATE ON THE ARPA CHILDCARE PROGRAM - YOLANDA FIELDS

(2023-536)

E. CITY COUNCIL TOUR

E.1. TOUR OF PROPERTIES THAT ARE SUBJECTS OF AGENDA ITEMS (2023-450 AND 2023-502)

DATE: MARCH 17TH, 2023

TIME: 4:00 PM (BEGINNING AT LEGACY VENTURES) - 4:30 PM

TENTATIVELY (VAN SCYOC)

ADDRESS: SOUTHEAST OF GREGG AND ELM (LEGACY VENTURES) - 2910 NORTH OLD WIRE ROAD (SCYOC)

PARKING: PARKING VARIES BY LOCATION.

REQUEST: REZONING REQUESTS FORWARDED FROM THE PLANNING COMMISSION.

(2023-576)

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, 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 for all members of the audience who have signed up prior to the beginning of the agenda item they wish to address being opened for public comment. Speakers shall be limited to a maximum of five (5) minutes to discuss the agenda item being considered by the City Council. Amendments may receive public comments only if approved by the City Council by unanimous consent or majority vote. If public comment is allowed for an amendment, speakers will only be allowed to speak for three (3) minutes. The City Council may allow both a speaker additional time and an unsigned-up person to speak 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 five (5) 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.

Interpreters or Telecommunications Device 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.

All cell phones must be silenced and may not be used within the City Council Chambers.

Chair
Sonia Harvey
Council Member
Ward 1 Position 1

Vice 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 Report March 21, 2023

**Council Members Present – Chair Sonia Harvey, Vice-Chair Mike Wiederkehr,
Sarah Bunch and Teresa Turk.**

The Nominating Committee recommends the following candidates for appointment:

BLACK HERITAGE PRESERVATION COMMISSION

Veronica Huff – One Unexpired Member-at-Large Term Ending (12/31/25)
Wendell Huggins – One Unexpired Member-at-Large Term Ending (12/31/25)

CIVIL SERVICE COMMISSION

Stanley Adelman – One Citizen-at-Large Term Ending (03/31/29)
Warren McDonald – One Citizen-at-Large Term Ending (03/31/29)

COMMUNITY DEVELOPMENT AND ASSISTANCE PROGRAMS ADVISORY BOARD

Natasha Coleman – One Resident-at-Large Term Ending (12/31/26)
Vacant – One Member Involved in Housing Services Term Ending (12/31/26)

CONSTRUCTION BOARD OF ADJUSTMENT AND APPEALS

Vacant – One Member-at-Large Term Ending (03/31/28)

ENERGY IMPROVEMENT DISTRICT NO. 1

Vacant – One Unexpired Term Ending (12/31/24)

FAYETTEVILLE ARTS COUNCIL

Taylor Johnson – One Unexpired Working Artist Term Ending (06/30/23)

FAYETTEVILLE PUBLIC LIBRARY

Sallie Overbey – One Public-at-Large Term Ending (04/01/28)
Bret Parks – One Public-at-Large Term Ending (04/01/28)

HOUSING AUTHORITY BOARD OF COMMISSIONERS

Debra Humphrey – One Unexpired Resident Representative Term Ending (12/28/23)
Vacant – One Unexpired Public-at-Large Term Ending (12/28/26)

PLANNING COMMISSION

Jimm Garlock – One Citizen-at-Large Term Ending (03/31/26)
Fred Gulley – One Citizen-at-Large Term Ending (03/31/26)
Brad Payne – One Citizen-at-Large Term Ending (03/31/26)

PUBLIC FACILITIES BOARD

Marlee Stark – One Unexpired Public-at-Large Term Ending (12/31/27)

URBAN FORESTRY ADVISORY BOARD

Vacant – One Unexpired Tree Service Community Representative Term Ending (12/31/24)

TOWN AND GOWN ADVISORY COMMITTEE

Brandon Gibbins – One Unexpired University of Arkansas Student Living Off Campus Term Ending
(09/30/23)



MEETING OF MARCH 21, 2023

TO: Mayor Jordan and City Council

THRU: Susan Norton, Chief of Staff
Jonathan Curth, Development Services Director
Alison Jumper, Director of Parks, Natural Resources and Cultural Affairs
Ted Jack, Park Planning Superintendent
Jessica Masters, Development Review Manager

FROM: John Scott, Urban Forester
Melissa Evans, Urban Forester

DATE:

SUBJECT: Recognize Tree Escrow Payments for the 2023 Urban Forestry Budget

RECOMMENDATION:

Urban Forestry recommends the recognition of \$101,992.00 in tree escrow payments and interest received in the escrow – Tree Ordinance Account, which is to be used for tree planting projects at various locations throughout the City of Fayetteville, and approval of a budget adjustment.

BACKGROUND:

Our unified development code, chapter 167.04 J4 allows developers to pay into a tree escrow account as a last option for planting trees. From 2015 to 2020, staff collected no escrow funds, and developers planted the trees. In 2021, staff received funds from projects on Freshwater Lane, and off Old Wire Road. In 2022, Weddington Place subdivision, Stonebrook, and Crain Kia paid into the tree escrow fund instead of planting the required trees.

DISCUSSION:

The money collected into the tree escrow account was paid as a last resort for developers. These funds will help Urban Forestry plant trees throughout the City.

BUDGET/STAFF IMPACT:

\$101,992.00 to be recognized and available in the escrow account.

ATTACHMENTS: 2023-438 SRF Tree Escrow, 2023-438 BA Tree Escrow



City of Fayetteville, Arkansas

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

Legislation Text

File #: 2023-438

Recognize Tree Escrow Payments for the 2023 Urban Forestry Budget

A RESOLUTION TO APPROVE A BUDGET ADJUSTMENT IN THE TOTAL AMOUNT OF \$101,992.00 TO TRANSFER A TREE ESCROW BALANCE FOR THE PLANTING OF MITIGATION TREES IN VARIOUS LOCATIONS THROUGHOUT THE CITY OF FAYETTEVILLE

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 total amount of \$101,992.00 to transfer a balance of funds held in the tree escrow account for the planting of mitigation trees in various locations throughout the City of Fayetteville.

City of Fayetteville Staff Review Form

2023-438

Item ID

3/21/2023

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

John Scott

2/24/2023

PARKS & RECREATION (520)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Urban Forestry recommends the recognition of \$101,992.00 in tree escrow payments and interest received in the escrow Tree Ordinance account, which is to be used for tree planting projects at various locations throughout the City of Fayetteville, and approval of a budget adjustment.

Budget Impact:

4470.520.8520-4409.04

Tree Escrow

Account Number

Fund

08001.1

Tree Escrow

Project Number

Project Title

Budgeted Item? Yes

Total Amended Budget

\$ 26,235.00

Expenses (Actual+Encum)

\$ -

Available Budget

\$ 26,235.00

Does item have a direct cost? No

Item Cost

\$ -

Is a Budget Adjustment attached? Yes

Budget Adjustment

\$ 101,992.00

Remaining Budget

\$ 128,227.00

V20221130

Purchase Order Number: _____

Previous Ordinance or Resolution # _____

Change Order Number: _____

Approval Date: _____

Original Contract Number: _____

Comments:

Budget Year	Division	Adjustment Number
2023	PARKS & RECREATION (520)	
	Requestor: Alan Bearden	

Budget adjustment to recognize and allocate payments & interest received into the Escrow - Tree Ordinance GL Account (4470-2535.00), which is to be used for tree planting projects at various locations throughout the City of Fayetteville. Project spending activity related to the Escrow - Tree Ordinance is tracked in the Tree Escrow project (08001.1).

	COUNCIL DATE:	3/21/2023
	ITEM ID#:	2023-438
	<i>Holly Black</i> <i>2/27/2023 8:01 AM</i>	
	Budget Division	Date
	TYPE:	D - (City Council)
JOURNAL #:		
GLDATE:		
CHKD/POSTED:	/	

[illegible]



MEETING OF MARCH 21, 2023

TO: Mayor Jordan and City Council
THRU: Terry Gulley, Asst Public Works Director - Ops
FROM: Ross Jackson, Jr., Fleet Operations Superintendent
DATE:
SUBJECT: Purchase of one (1) Sweeper / Broom from The GW Van Keppel Co.

RECOMMENDATION:

COUNCIL APPROVES A RESOLUTION TO PURCHASE ONE (1) BROCE RCT350 SWEEPER / BROOM FOR A TOTAL PRICE OF \$66,877 PLUS APPLICABLE TAXES AND FREIGHT CHARGES FROM THE G.W. VAN KEPPAL COMPANY OFF STATE CONTRACT.

BACKGROUND:

Unit 88 is a 1998 Broce RJ350 Street Sweeper / Broom with 15/15 points.

DISCUSSION:

Fleet is able to purchase a 2023 Broce RCT350 Street Sweeper / Broom for \$66,877. We currently own another Broce RJ350 Sweeper / Broom and would like to replace it with a like unit. One is available off the state contract and can be delivered in a timely manner.

BUDGET/STAFF IMPACT:

The purchase of this equipment has been sufficiently budgeted for within the project and the replacement costs for the old unit have been fully collected.

Broce Broom / Sweeper was approved in the February 14th Equipment Committee.

ATTACHMENTS: SRF-Broce Broom (5), Quote Broce Broom



City of Fayetteville, Arkansas

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

Legislation Text

File #: 2023-474

Purchase of one (1) Sweeper / Broom from The GW Van Keppel Co.

A RESOLUTION TO AUTHORIZE THE PURCHASE OF A STREET SWEEPER/BROOM FROM G.W. VAN KEPPEL COMPANY FOR THE AMOUNT OF \$66,877.00 PLUS ANY APPLICABLE TAXES AND FREIGHT CHARGES, PURSUANT TO A SOURCEWELL COOPERATIVE PURCHASING CONTRACT

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 the purchase of a Broce Street Sweeper/Broom from G.W. Van Keppel Company of Van Buren for the total amount of \$66,877.00 plus any applicable taxes and freight charges, pursuant to a Sourcewell cooperative purchasing contract.

City of Fayetteville Staff Review Form

2023-474

Item ID

3/21/2023

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

Ross Jackson

2/27/2023

FLEET OPERATIONS (770)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

A RESOLUTION TO PURCHASE ONE (1) BROCE RCT350 SWEEPER / BROOM FOR A TOTAL PRICE OF \$66,877 PLUS APPLICABLE TAXES AND FREIGHT CHARGES FROM THE G.W. VAN KEPAL COMPANY OFF STATE CONTRACT.

Budget Impact:

9700.770.1920-5802.00

Shop

Account Number

Fund

02080.2015

Other Vehicles / Equipment

Project Number

Project Title

Budgeted Item? Yes

Total Amended Budget

\$ 837,346.00

Expenses (Actual+Encum)

\$ 13,588.00

Available Budget

\$ 823,758.00

Does item have a direct cost? Yes

Item Cost

\$ 66,877.00

Is a Budget Adjustment attached? No

Budget Adjustment

Remaining Budget

\$ 756,881.00

V20221130

Purchase Order Number: _____

Previous Ordinance or Resolution # _____

Change Order Number: _____

Approval Date: _____

Original Contract Number: _____

Comments:



THE G. W. VAN KEPPEL COMPANY

6455 W. Independence Drive, Springfield, MO 65802 417-865-3550 Fax 417-865-1044

2.7.23

City of Fayetteville Arkansas
Attn: Ross Jackson
Fayetteville, AR 72701

Mr. Jackson,

The GW Van Keppel Company is pleased to present the following for your review.

Pursuant to State of Arkansas Bid and Subsequent Award H-22-306R allows for any Tax Supported entity in the State of Arkansas to buy pursuant to this Bid Dated 6/7/22 for a period of 1 year. With that in Mind below are the Same Specifications that the State of Arkansas Purchases.

NEW 2023 BROCE RCT350 BROOM (to include the following options)

- CUMMINS 74HP DIESEL ENGINE TIER IV
- 8 FT POLY TUBE BRUSH (96" BRUSH SURFACE)
- EXTENSION AIR STACK
- SUSPENSION SEAT
- 150 GAL WATER SPRINKLER SYSTEM W/LOW PROFILE POLY TANK (BLACK)
- HEATER & DEFROSTER SYSTEM
- PRESSURIZED AIR CONDITIONER-HEPA FILTRATION
- LIGHT GROUP-LED
- WINDSHIELD WASHER (FRONT AND REAR)
- WEST COAST MIRRORS
- SOUND SUPPRESSED CAB (2 DOORS) W/FRONT WIPER
- CERTIFIED ROLL-OVER PROTECTION STRUCTURE
- 8' STEEL CORE WITH 10"X32" POLY WAFER FILLER
- FULL GAUGE PACKAGE WITH TACH & HOUR METER
- POWER STEERING & TRAFFIC HORN
- BRAKES- FOUR WHEEL HYDRAULIC SELF ADJUSTING ON REAR AND DISC ON FRONT
- RADIAL TIRES
- HYDROSTATIC TRANSMISSION
- DUAL ELEMENT AIR CLEANER/ENGINE PRECLEANER
- 112DBA REVERSE ALARM
- JOY STICK CONTROL
- ENCLOSED ENGINE COVER
- FRONT AND REAR FENDERS

Sale Price \$66,877.00 Each (plus any applicable taxes) FOB Fayetteville, AR.

Additional Option Available:

Front Dozer Blade \$3,995.00 additional

THE G W VAN KEPPEL COMPANY

BUD EARP
TERRITORY MANAGER

QUOTE COMPLETED BY MATT PETTIT ROAD GROUP MANAGER



MEETING OF MARCH 21, 2023

TO: Mayor Jordan and City Council
THRU: Terry Gulley, Asst Public Works Director - Ops
FROM: Ross Jackson, Jr., Fleet Operations Superintendent
DATE:
SUBJECT: Purchase of five (5) vehicles from Lewis Ford

RECOMMENDATION:

Council approves the purchase of five (5) vehicles for the state contract total price of \$191,058.00 from Lewis Ford of Fayetteville, AR and to approve a budget adjustment.

BACKGROUND:

Unit 2160 is a 2013 Ford F250 with 13.2/15 points. Unit 2152 is a 2012 Chevy Colorado with 13.7/15 points. Unit 2165 is a 2013 F150 with 15/15 points. There were also two expansion vehicles approved for 2023, a SUV for Animal Services and a truck for Parks Maintenance.

DISCUSSION:

Fleet is able to purchase a Ford Escape for \$29,296, Ford Explorer for \$34,231, Ford Ranger for \$29,737, and two Ford F250's for \$48,897 each. All of these are state contract prices, for a total of \$191,058.00.

BUDGET/STAFF IMPACT:

The three replacement units all have sufficient funds budgeted and collected for these replacement vehicles.

Due to increases in industry prices, there was not enough budgeted for the expansion units. A Budget Adjustment is being presented to council for this increase.

These purchases were approved at the February 14, 2023 Equipment Committee.

ATTACHMENTS: SRF-Lewis Ford, 2023-426 BA Fleet PRKS_F080, Item #40 Ford Escape, Item #44 Ford Explorer, Item #6 Ford Ranger, Item #20 Ford F250 Crew Cab



City of Fayetteville, Arkansas

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

Legislation Text

File #: 2023-426

Purchase of five (5) vehicles from Lewis Ford

A RESOLUTION TO APPROVE THE PURCHASE OF FIVE FORD VEHICLES FROM LEWIS FORD OF FAYETTEVILLE IN THE TOTAL AMOUNT OF \$191,058.00, PURSUANT TO A STATE PROCUREMENT CONTRACT, AND TO APPROVE A BUDGET ADJUSTMENT

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 the purchase of a Ford Escape, Ford Explorer, Ford Ranger and two Ford F250 trucks from Lewis Ford of Fayetteville in the total amount of \$191,058.00, pursuant to a state procurement contract.

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

2023-426

Item ID

3/21/2022

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

Ross Jackson

2/27/2023

FLEET OPERATIONS (770)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

A RESOLUTION TO APPROVE THE PURCHASE OF FIVE(5) VEHICLES FOR THE STATE CONTRACT TOTAL PRICE OF \$191,058.00 FROM LEWIS FORD OF FAYETTEVILLE, AR AND TO APPROVE A BUDGET ADJUSTMENT.

Budget Impact:

9700.770.1920-5802.00

Shop

Account Number

Fund

02078.2023

Light/Medium Trucks

Project Number

Project Title

Budgeted Item? Yes

Total Amended Budget

\$ 1,141,310.00

Expenses (Actual+Encum)

\$ 339,813.09

Available Budget

\$ 801,496.91

Does item have a direct cost? Yes

Item Cost

\$ 191,058.00

Is a Budget Adjustment attached? Yes

Budget Adjustment

\$ 4,000.00

Remaining Budget

\$ 614,438.91

V20221130

Purchase Order Number:

Previous Ordinance or Resolution #

Change Order Number:

Approval Date:

Original Contract Number:

Comments: The "item cost" and "current budget" boxes have been left blank because these items will vary depending upon the Fleet Department's fluctuating needs based on the requirements of that vehicle.

Budget Year	Division	FLEET OPERATIONS (770)	Adjustment Number
2023	/Org2		
	Requestor:	Ross Jackson	

Project 02078 is in need of additional budget to purchase expansion PRKS_F080/unit # 2284. Project 02082 has ample funds to cover this shortage that is not tied to any vehicle and will not affect any future purchases.

	COUNCIL DATE:	3/7/2023
	ITEM ID#:	2023-426
	Holly Black	
	2/27/2023 3:10 PM	
	Budget Division	Date
	TYPE:	D - (City Council)
	JOURNAL #:	
	GLDATE:	
	CHKD/POSTED:	/
RESOLUTION/ORDINANCE		

[illegible]

Vehicle Specifications & Pricing

ITEM 40

TYPE VHB 10128187

**5 passenger Small Sport Utility
Vehicle as classified in the latest
EPA Fuel Economy Guide, 4WD**

Dealer Name:

SMART FORD MALVERN

Vehicle Make/Model:

2023 Ford Escape

Model Code:

U9F

City MPG Estimate:

26 MPG

Highway MPG Estimate:

31 MPG

CO-OP Purchasing One Way Delivery Charge Per Mile:

\$3.85

[Back to Table of Contents](#)

VEHICLE BID PRICE:

\$29,296.00

Body & Chassis	Base Vehicle Minimum Requirements	Enter Vehicle Specification and Manufacturer Codes (Fill-in Unshaded Blanks Only)
Sub-Compact or Compact Utility Vehicle	5 Passenger	
Interior Volume	EPA interior volume equal to or less than 135 cubic feet	
Engine		
Engine Size	150hp - List HP, Liters & Cylinders	181 HP 4 CYL
Fuel Type	Gasoline	
Transmission/Drivetrain		
Automatic Transmission	Automatic or CVT - List Type, Speeds etc.	8 SPEED AUTOMATIC
4x4 or AWD	4x4 or AWD	
Hubs	Automatic Locking if 4x4 List Type	AWD
Stability Control	Stability Control System	
Differential Type/Ratio	Mfg.Std. - List Ratio & Type	STD.
Electrical		
Alternator	Mfg. Std.	
Battery	Mfg. Std.	
Fuel Tank		
Fuel Capacity (Gals)	Mfg. Std. - List Amount in Gallons	14.79 GALS
Exterior		
Paint	One Color Paint	
Bumpers	Mfg.Std Front & Rear	
License Plate Brackets	Front and Rear Brackets	
Windshield Washer	Windshield Washer & Multi-Speed Wipers	
Doors & Mirrors		
Doors	4-Door	
Mirrors	Two Outside, Right & Left, One inside	
Interior		
Air Conditioning	AC Factory Installed	
Radio	Audio system with AM/FM Stereo	
Cruise	Cruise Control, Factory Installed	
Tilt Steering	Tilt Steering Wheel	
Steering	Power Steering	
Windows	Mfg. Standard	
Power Windows & Door Locks	Power Windows & Door Locks	
Tinted Glass	Mfg. Std. Tint on All Windows	
Floor Mats	Front & Rear, Color to Match Interior	
Seats		
Seats	Mfg. Std., Colors Must Blend With Interior & Exterior Color	
Safety		
Brakes	Anti-Lock Brake System (ABS) - List Disc/Drums	4 DISC ABS
Restraint System All Pass	Required	

ITEM 40		Dealer Name:	SMART FORD MALVERN
Air Bags, Front, Both Sides	Required		
Tires & Wheels			
Tires & Wheels	Mfg. Std. - List Size	225/65R17	
Spare	Mfg. Std. - List Type	STD.	
Warranty			
Bumper to Bumper Warranty	3 Years or 36,000 miles, whichever comes first		
Drive Train Warranty	List Warranty	5YR OR 60,000 MILES	

Vehicle Specifications & Pricing

ITEM 44

TYPE VIB 10128191

4WD, 7 Passenger Standard

**Sport Utility Vehicle as classified
in the latest EPA Fuel Economy
Guide**

Dealer Name:

SMART FORD MALVERN

Vehicle Make/Model:

2023 FORD EXPLORER

Model Code:

K8B

City MPG Estimate:

20 MPG

Highway MPG Estimate:

27 MPG

CO-OP Purchasing One Way Delivery Charge Per Mile:

\$3.85

[Back to Table of Contents](#)

VEHICLE BID PRICE:

\$34,231.00

Body & Chassis	Base Vehicle Minimum Requirements	Enter Vehicle Specification and Manufacturer Codes (Fill-in Unshaded Blanks Only)
Standard Sport Utility Vehicle	7 Passenger	
Wheelbase	Minimum 112 inches	
Engine		
Engine Size	290 hp - List HP, Liters & Cylinders	300 HP 2.3L I-4
Fuel Type	Gasoline	
Transmission/Drivetrain		
Automatic Transmission	Automatic or CVT - List Type, Speeds etc.	10 SPEED AUTOMATIC
4x4 or AWD	4x4 or AWD	
Hubs	Automatic Locking If 4x4	
Stability Control	Stability Control System	
Differential Type/Ratio	Mfg.Std. - List Ratio & Type	3.5 4-WHEEL DRIVE
Electrical		
Alternator	Mfg. Std.	
Battery	Mfg. Std.	
Fuel Tank		
Fuel Capacity (Gals)	Mfg. Std. - List Amount in Gallons	17 GAL
Exterior		
Paint	One Color Paint	
Bumpers	Mfg.Std Front & Rear	
License Plate Brackets	Front and Rear Brackets	
Windshield Washer	Windshield Washer & Multi-Speed Wipers	
Doors & Mirrors		
Doors	4-Door	
Mirrors	Two Outside, Right & Left, One inside	
Interior		
Air Conditioning	AC Factory Installed	
Radio	Audio system with AM/FM Stereo	
Cruise	Cruise Control, Factory Installed	
Tilt Steering	Tilt Steering Wheel	
Steering	Power Steering	
Windows	Mfg. Standard	
Power Windows & Door Locks	Power Windows & Door Locks	
Tinted Glass	Mfg. Std. Tint on All Windows	
Floor Mats	Front & Rear, Color to Match Interior	
Seats		
Seats	Mfg. Std., Colors Must Blend With Interior & Exterior Color	
Safety		
Brakes	Anti-Lock Brake System (ABS) - List Disc/Drums	4 WHEEL DISC ABS

ITEM 44		Dealer Name:	SMART FORD MALVERN
Restraint System All Pass	Required		
Air Bags, Front, Both Sides	Required		
Tires & Wheels			
Tires & Wheels	Mfg. Std. - List Size		P255 / 65R 18 A/S
Spare	Mfg. Std. - List Type		COMPACT
Warranty			
Bumper to Bumper Warranty	3 Years or 36,000 miles, whichever comes first		
Drive Train Warranty	List Warranty		5 YR OR 60,000 MILES

Vehicle Specifications & Pricing

ITEM 6
TYPE PAB 10011620
Small Pickup Extended Cab
2 Wheel Drive

Dealer Name:
Vehicle Make/Model
Model Code:
City MPG Estimate
Highway MPG Estimate

SMART FORD MALVERN

2023 Ford Ranger

R1E

21 MPG

26 MPG

CO-OP Purchasing One Way Delivery Charge Per Mile

\$3.85

**Total with
Options**

[Back to Table of Contents](#)

VEHICLE BID PRICE

\$27,082.00

\$29,737.00

Body & Chassis	Base Vehicle Minimum Requirements	Enter Vehicle Specification and Manufacturer Codes (Fill-in Unshaded Blanks Only)
Extended Cab Pickup Truck	EPA Classified as Small Pickup Truck	
Gross Vehicle Weight Rating	4500 lbs.	
Wheelbase/CA	Mfg. Std. - List Size	126.8 WB
Bed	Short Bed	
Engine		
Engine Size	250hp - List HP, Liters & Cylinders	370HP 4 CYL
Fuel Type	Gasoline	
Transmission		
Automatic/CVT Transmission	Automatic or CVT - List Type, Speeds etc.	10 SPEED AUTOMATIC
Drive Axle		
Primary Drive Axle	Mfg. Std. - List Axle Ratio	3.73
Differential Type/Ratio	Mfg.Std. - List Ratio & Type	RWD
Electrical		
Alternator	Mfg. Std.	
Battery	Mfg. Std.	
Fuel Tank		
Fuel Capacity (Gals)	Mfg. Std. - List Amount in Gallons	17.99 GAL
Exterior		
Paint	One Color Paint	
Bumpers	Mfg.Std Front, Step-Type Rear	
License Plate Brackets	Front and Rear Brackets	
Windshield Washer	Windshield Washer & Multi-Speed Wipers	
Doors & Mirrors		
Doors	4 Doors	
Mirrors	Two Outside, Right & Left. One Interior	
Interior		
Air Conditioning	AC Factory Installed	
Radio	Audio System with AM/FM Stereo	
Tilt Steering	Tilt Steering Wheel	
Steering	Power Steering	
Tinted Glass	Mfg. Std.	
Gauges/Indicators	Mfg. Std. - List Gauges and Indicators	FUEL-OIL-ENGINE TEMP. - ETC.
Seats		
Seats	Mfg. Std., Colors Must Blend With Interior & Exterior Color	
Safety		
Brakes	Anti-Lock Brake System (ABS) - List Disc/Drums	4 WHEEL DISC. ABS
Restraint System All Pass	Required	
Air Bags, Front, Both Sides	Required	
Tires & Wheels		
Tires & Wheels	Mfg. Std. - List Size	225/70R16 A/S

Vehicle Specifications & Pricing

Spare	Mfg. Std. - List Size (Full or Space Saver)	FULL SIZE SPARE
Warranty		
Bumper to Bumper Warranty	3 Years or 36,000 miles, whichever comes first	
Drive Train Warranty	List Warranty	5 YR OR 60,000 MILES

ITEM 6		VEHICLE OPTIONS		Dealer Name: SMART FORD MALVERN	
TYPE PAB Small Pickup Ext. Cab 2 Wheel Drive Back to Table of Contents				2023 Ford Ranger	
Body & Chassis	Code	Option Minimum Requirement	Enter Optional Equip. Desc. & Mfg. Option Codes	Price	
Bed	QH	Long Bed	N/A	\$0.00	
Engine					
Gasoline Engine Upgrade	CC	List Horsepower, Liters & Cylinders	N/A	\$0.00	
Flex Fuel	FFV	Add Flex Fuel	N/A	\$0.00	
Engine Block Heater	HB	Add Block Heater	41H	\$135.00	
Transmission/Drivetrain					
4X4	AO	Add 4X4 With Auto Locking Hubs	R1F	\$4,055.32	
Skid Plate	KO	Add Skid Plate	N/A	\$0.00	
Limited Slip Differential	LS	Limited Slip Differential	X73	\$520.00	
Electrical					
Daytime Running Lights	DL	Add Daytime Running Lights	STD.	\$0.00	
Doors & Windows					
Deep Tinted Windows	TG	Add Deep Tinted Glass	N/A	\$0.00	
Power Windows & Door Locks	XX	Power Windows & Door Locks	67F	\$555.00	
Keyless Entry	KE	Keyless Entry	STD. W/67F	\$0.00	
Interior					
Radio Upgrade	RU	Premium Audio System with AM/FM Stereo & MP3 Capability	58E	\$985.00	
Cruise	PO	Cruise Control, Factory Installed	52B	\$375.00	
Cloth Seats	CS	Cloth Seats	QH	\$225.00	
Vinyl Floor	VF	Rubber/Vinyl Flooring	STD.	\$0.00	
Backup Camera	BR	Backup Camera	STD.	\$0.00	
Backup Sensor	BS	Backup Sensor	N/A	\$0.00	
Tires & Wheels					
All Terrain Tires	AT	All Terrain Tires	N/A STD. W-4X4 R1F PKG.	\$0.00	
Spare	WL	Mounted Full Size Spare	STD.	\$0.00	
Towing					
Towing	XO	Towing Package Including: Hitch, Wiring Harness, Upgraded Radiator, Transmission Oil Cooler	53R	\$595.00	
Electric Brake Controller	BC	Add Electric Brake Controller	N/A	\$0.00	
Towing Differential	BO	Differential for Extra Towing Capability	X73	\$520.00	

Vehicle Specifications & Pricing

ITEM 20

TYPE PED 10111950
3/4 Ton Crew Cab
4X4 Wheel Drive

Dealer Name: SMART FORD MALVERN

Vehicle Make/Model: 2023 FORD F-250

Model Code: W2B

City MPG Estimate: N/A

Highway MPG Estimate: N/A

With Options

CO-OP Purchasing One Way Delivery Charge Per Mile: \$4.25 **\$48,897.00**

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VEHICLE BID PRICE: \$45,392.00

Body & Chassis	Base Vehicle Minimum Requirements	Enter Vehicle Specification and Manufacturer Codes (Fill-in Unshaded Blanks Only)
Crew Cab Pickup Truck	Crew Cab	
Gross Vehicle Weight Rating	8,500 lbs.	
3/4 Ton	3/4 Ton Pickup	
Wheelbase/CA	Mfg. Std. - List Size	176 W/B
Bed	Long Wide Bed	
Engine		
Engine Size	350hp - List HP, Liters & Cylinders	385 HP V-8
Fuel Type	Gasoline	
Transmission/Drivetrain		
Automatic Transmission	Automatic - List Type, Speeds etc.	6-SPEED AUTOMATIC
4X4	4X4 with Auto Locking Hubs	
Differential Type/Ratio	Mfg. Std. - List Ratio & Type	RWD 3.73 REG. AXLE
Electrical		
Alternator	Mfg. Std.	
Battery	Mfg. Std.	
Fuel Tank		
Fuel Capacity (Gals)	Mfg. Std. - List Amount in Gallons	34 GAL.
Exterior		
Paint	One Color Paint	
Bumpers	Mfg. Std Front, Step-Type Rear	
License Plate Brackets	Front and Rear Brackets	
Windshield Washer	Windshield Washer & Multi-Speed Wipers	
Doors & Mirrors		
Doors	4 Full Doors	
Mirrors	Two Outside, Right & Left. One Interior	
Interior		
Air Conditioning	AC Factory Installed	
Radio	Audio System with AM/FM Stereo	
Tilt Steering	Tilt Steering Wheel	
Steering	Power Steering	
Tinted Glass	Mfg. Std.	
Gauges/Indicators	Mfg. Std. List Gauges/Indicators	FUEL-OIL-TEMP-ETC.
Seats		
Seats	Mfg. Std., Colors Must Blend With Interior & Exterior Color	
Safety		
Brakes	Anti-Lock Brake System (ABS) - List Disc/Drums	4-WHEEL DISC ABS
Restraint System All Pass	Required	
Air Bags, Front, Both Sides	Required	
Tires & Wheels		

2284

Vehicle Specifications & Pricing

Tires & Wheels	Mfg. Std. - List Size	LT245 BSW AS 17
Spare	Mfg. Std. - List Size (Full or Space Saver)	FULL
Warranty		
Bumper to Bumper Warranty	3 Years or 36,000 miles, whichever comes first	
Drive Train Warranty	List Warranty	5 YR OR 60,000 MILES

ITEM 20	VEHICLE OPTIONS		Dealer Name: SMART FORD MALVERN	
TYPE PED 3/4 Ton Crew Cab 4X4 Wheel Drive Back to Table of Contents			2023 FORD F-250	W2B
Body & Chassis	Code	Option Minimum Requirement	Enter Optional Equip. Desc. & Mfg. Option Codes	Price
Bed	QH	Short Bed (deduct)	160" W/B	\$125.00
Engine				
Gasoline Engine Upgrade	CC	List Horsepower, Liters & Cylinders	7.3L V-8 430HP	\$2,585.00
Flex Fuel	FFV	Add Flex Fuel	STD 6.2L	\$0.00
Engine Block Heater	HB	Add Block Heater	41H	\$145.00
Diesel Engine	CA	350 hp Diesel Engine Factory Installed	99T X3J-3.55L/S	\$10,995.00
Bio Diesel	BD	350 hp Bio Diesel with OEM Warranty	STD. DIESEL ONLY	\$0.00
PTO	PTO	Power Take Off	62R DIESEL ONLY	\$335.00
CNG system	CNG	Alternative Fuel: CNG system shall include all components necessary to power vehicle with CNG.	98F 6.2L ONLY	\$415.00
Transmission/Drivetrain				
Skid Plate	KO	Add Skid Plate	41P	\$135.00
Limited Slip Differential	LS	Limited Slip Differential	(X3E 6.2L) X3J 7.3L	\$625.00
Electrical				
Daytime Running Lights	DL	Add Daytime Running Lights	942	\$75.00
Alternator	HA	Heavy Duty Alternator - List Amps	240 AMP 67E	\$325.00
Batteries	DB	Dual Batteries	86M	\$225.00
Power Outlet	EP	Add 12-Volt Power Outlet	66S	\$225.00
Doors & Windows				
Deep Tinted Windows	TG	Add Deep Tinted Glass	924 RREQUIRES REAR DEFROSTER-POWER GROUP 43B-90L	\$1,440.00
Power Windows & Door Locks	XX	Power Windows & Door Locks	90L	\$1,300.00
Keyless Entry	KE	Keyless Entry	STD. POWER GROUP	\$0.00
Interior				
Radio Upgrade	RU	Premium Audio System with AM/FM Stereo & MP3 Capability	SYNC 3	\$625.00
Cruise	PO	Cruise Control, Factory Installed	525	\$325.00
Vinyl Floor	VF	Rubber/Vinyl Flooring	STD.	\$0.00
Cloth Seats	CS	Cloth Seats	1S	\$225.00
Front Buckets	FB	Front Bucket Seats with Console	4S 40/CONSOLE/40	\$625.00
Tires & Wheels				
All Terrain Tires	AT	All Terrain Tires	TBM	\$325.00
Spare	WL	Mounted Full Size Spare	STD.	\$0.00
Towing				
Towing	XO	Towing Package Including: Hitch, Wiring Harness, Upgraded Radiator, Transmission Cooler	STD.	\$0.00
Electric Brake Controller	BC	Add Electric Brake Controller	52B	\$425.00
Trailer Mirrors	TM	Manual Telescoping Trailer Mirrors	STD.	\$0.00
Towing Differential	BO	Differential for Extra Towing Capability	X3E 6.2L	\$530.00



MEETING OF MARCH 21, 2023

TO: Mayor Jordan and City Council
THRU: Terry Gulley, Asst Public Works Director - Ops
FROM: Ross Jackson, Jr., Fleet Operations Superintendent
DATE:
SUBJECT: **Approval of Bulk Fuel Contract**

RECOMMENDATION:

That the City Council approve the Bulk Fuel Contract with Petroleum Traders Corporation to supply gasoline and diesel fuel per bid 23-18.

BACKGROUND:

The City of Fayetteville's current fuel contract with Petroleum Traders Corporation per resolution 91-18 is expiring April 3, 2023. A new contract needs to be in place to insure there is no lapse in fuel inventory.

DISCUSSION:

Bid 23-18 February 15, 2023 at 2:00 pm. Petroleum Traders Corporation was the low bidder, a bid tab sheet is attached.

BUDGET/STAFF IMPACT:

Fleet recommends that the Council approve the contract between City of Fayetteville and Petroleum Traders Corporation to supply fuel to the City per Bid 23-18.

ATTACHMENTS: 2023-495 SRF Fuel Inventory, Bid 23-18, Bid Tab - AB and LM Signed, Bid 23-18, Submittal - Petroleum Traders Corporation - E, Signed Contract. Bid 23-18



City of Fayetteville, Arkansas

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

Legislation Text

File #: 2023-495

Approval of Bulk Fuel Contract

A RESOLUTION TO AWARD BID #23-18 AND APPROVE A ONE YEAR CONTRACT WITH PETROLEUM TRADERS CORPORATION FOR BULK FUEL PURCHASES WITH AUTOMATIC RENEWALS FOR UP TO FOUR ADDITIONAL ONE 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 awards Bid #23-18 and approves a one year contract with Petroleum Traders Corporation for bulk fuel purchases for the prices set forth in the bid documents, copies of which are attached to this Resolution, with automatic renewals for up to four additional one year terms.

City of Fayetteville Staff Review Form

2023-495

Item ID

3/21/2023

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

Ross Jackson

2/27/2023

FLEET OPERATIONS (770)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

A resolution approving a contract between the City of Fayetteville and Petroleum Traders Corporation to provide gasoline and diesel fuel to the City per bid 23-18.

Budget Impact:

9700.770.1910-5213.00 & 5213.01

Shop Fund

Account Number

Fund

Project Number

Project Title

Budgeted Item? Yes

Total Amended Budget

\$ 2,730,245.00

Expenses (Actual+Encum)

\$ 142,953.71

Available Budget

\$ 2,587,291.29

Does item have a direct cost? No

Item Cost

\$ -

Is a Budget Adjustment attached? No

Budget Adjustment

\$ -

Remaining Budget

\$ 2,587,291.29

V20221130

Purchase Order Number:

Previous Ordinance or Resolution #

Change Order Number:

Approval Date:

Original Contract Number:

Comments:



BID TABULATION
Bid 23-18, Bulk Fuel

DEADLINE: Wednesday, February 15, 2023 at 2:00 PM

				Petroleum Traders Corporation		Mansfield Oil Company of Gainesville	
				Total			
				\$1,313.20		\$2,533.86	
Line #	Description	QTY	UOM	Unit	Extended	Unit	Extended
Schedule A (Full Tank Deliveries)					\$8.20		\$978.60
1.1	#2 Dyed Ultra Low Sulfur Diesel Price as Mark Up PER GALLON (Use 4 decimals)	26,000	Gallons	-\$0.0033		\$0.0251	
1.2	Unleaded 87 Octane Gasoline Price as Mark Up PER GALLON (Use 4 decimals)	20,000	Gallons	\$0.0047		\$0.0163	
Schedule B (Bob-Tail Deliveries - No 100 Octane)					\$1,305.00		\$1,555.26
2.1	#2 Dyed Ultra Low Sulfur Diesel Price as Mark Up PER GALLON (Use 4 Decimals)	2,500	Gallons	\$0.45		\$0.5346	
2.2	Unleaded 87 Octane Gasoline Price as Mark Up PER GALLON (Use 4 Decimals)	400	Gallons	\$0.45		\$0.5469	

* NOTICE: Bid award is contingent upon vendor meeting minimum specifications and formal authorization by City Officials.

Amanda Beilfuss Digitally signed by Amanda Beilfuss
Date: 2023.02.15 14:40:50 -06'00'

Amanda Beilfuss, Sr. Purchasing Agent

Les McGaugh Digitally signed by Les McGaugh
Date: 2023.02.16 15:23:46 -06'00'

Les McGaugh, Purchasing Director



Bid 23-18 Addendum 2

Petroleum Traders Corporation

Supplier Response

Event Information

Number: Bid 23-18 Addendum 2
Title: Bulk Fuel
Type: Invitation to Bid
Issue Date: 1/29/2023
Deadline: 2/15/2023 02:00 PM (CT)
Notes: The City of Fayetteville is seeking bids from qualified vendors for the purchase and delivery of bulk fuel for a one (1) year contract with four (4) one-year automatic renewals. Any questions concerning the bidding process should be directed to Amanda Beilfuss, City of Fayetteville Sr. Purchasing Agent, at abeilfuss@fayetteville-ar.gov.

Contact Information

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

Petroleum Traders Corporation Information

Contact: Joseph Vanderpool
Address: 7120 Pointe Inverness Way
Fort Wayne, IN 46804
Phone: (888) 637-7661
Email: jvanderpool@petroleumtraders.com
Web Address: www.petroleumtraders.com

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

Joseph Vanderpool
Signature

jvanderpool@petroleumtraders.com
Email

Submitted at 2/14/2023 09:59:34 AM (CT)

Requested Attachments

Bid 23-18, Bid Form

Bid Form.pdf

Please attach the completed, signed Bid Form.

Bid 23-18, Additional Requirements

Additional Requirements.pdf

Please attach additional information as required in the Bid Form.

Response Attachments

Fayetteville City of, AR 2023-0042 Submitted Bid.pdf

Entire Submittal

Bid Lines

1 Package Header

Schedule A (Full Tank Deliveries)

Quantity: 1

Total:

Item Notes: *Total Base Bid does not include cost per gallon for weekly rack price charged based on the index. Sales tax shall not be included in the bid price. Applicable Arkansas sales tax laws will apply as necessary but will not be considered in award of this project.*

Line items are formatted for bidders to provide markup pricing for each item. This markup price shall be added to the WEEKLY PUBLISHED OPIS average rack price (Fort Smith, AR location) to arrive at the total price charged to the City. The City shall pay NO additional fees, surcharges, etc.

Package Items

1.1 #2 Dyed Ultra Low Sulfur Diesel

Price as Mark Up PER GALLON (Use 4 decimals)

Quantity: 26000 UOM: Gallons

Price:

Total:

1.2 Unleaded 87 Octane Gasoline

Price as Mark Up PER GALLON (Use 4 decimals)

Quantity: 20000 UOM: Gallons Price: \$0.0047 Total: \$94.00

2 **Package Header**

Schedule B (Bob-Tail Deliveries - No 100 Octane)

Quantity: 1 Total: \$1,305.00

Item Notes: *Total Base Bid does not include cost per gallon for weekly rack price charged based on the index.
Sales tax shall not be included in the bid price. Applicable Arkansas sales tax laws will apply as necessary but will not be considered in award of this project.*

Line items are formatted for bidders to provide markup pricing for each item. This markup price shall be added to the WEEKLY PUBLISHED OPIS average rack price (Fort Smith, AR location) to arrive at the total price charged to the City. The City shall pay NO additional fees, surcharges, etc.

Package Items

2.1 #2 Dyed Ultra Low Sulfur Diesel

Price as Mark Up PER GALLON (Use 4 Decimals)

Quantity: 2500 UOM: Gallons Price: \$0.45 Total: \$1,125.00

2.2 Unleaded 87 Octane Gasoline

Price as Mark Up PER GALLON (Use 4 Decimals)

Quantity: 400 UOM: Gallons Price: \$0.45 Total: \$180.00

Response Total: \$1,313.20



**CITY OF
FAYETTEVILLE
ARKANSAS**

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

INVITATION TO BID

INVITATION TO BID: Bid 23-18, Bulk Fuel

DEADLINE: Wednesday, February 15, 2023 before 2:00 PM, Local Time

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

DATE OF ISSUE AND ADVERTISEMENT: 01/29/2023

INVITATION TO BID

Bid 23-18, Bulk Fuel

No late bids will be accepted. Bids shall be submitted in one of the following methods: (1) through the City's third-party electronic bidding platform, or (2) delivering in person via sealed envelope to the City of Fayetteville Purchasing Division. Submitting through the City's electronic bidding platform is strongly encouraged.

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

All bids shall be submitted in accordance with the attached City of Fayetteville specifications and bid documents attached hereto. Each bidder 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 Division.

City of Fayetteville
Bid 23-18, Bulk Fuel
Advertisement

City of Fayetteville, Arkansas
INVITATION TO BID
Bid 23-18, Bulk Fuel

The City of Fayetteville is seeking bids from qualified vendors for the purchase and delivery of bulk fuel for a one (1) year contract with four (4) one-year automatic renewals. Any questions concerning the bidding process should be directed to Amanda Beilfuss, City of Fayetteville Sr. Purchasing Agent, at abeilfuss@fayetteville-ar.gov or by calling (479) 575-8220.

Bidding documents and addenda shall be obtained at the City of Fayetteville Purchasing Division's electronic bidding platform at www.fayetteville-ar.gov/bids. All bids shall be received by **Wednesday, February 15, 2023 before 2:00 PM, Local Time** utilizing the electronic bidding software or by submitting a sealed physical bid to the City of Fayetteville, Purchasing Division address listed below. All bids are due before the time stated. 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>. No late bids shall be accepted. The City of Fayetteville shall not be responsible for lost or misdirected bids, or for failure of proposer's technical equipment.

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

Pursuant to Arkansas Code Annotated §22-9-203 The City of Fayetteville encourages all *qualified* small, minority and women business enterprises to bid on and receive contracts for goods, services, and construction. Also, City of Fayetteville encourages all general contractors to subcontract portions of their contract to *qualified* small, minority and women business enterprises.

Any bidder providing a service shall be registered with the Arkansas Secretary of State. The City of Fayetteville reserves the right to waive irregularities, to reject bids, and to postpone the award of the Contract for a period of time which shall not exceed beyond ninety calendar days from the bid opening date.

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: 01/29/2023
This publication was paid for by the Purchasing Division of the City of Fayetteville, Arkansas.
Amount paid: \$XXX.XX.

EXECUTION OF BID:

All bidders shall submit this section, executed and completed in full by an authorized agent of the bidder. Bidders shall also complete submission through the City's online bidding portal (www.fayetteville-ar.gov/bids) and complete and submit all required information, which may include:

- **Bid Attributes**
- **Bid Line Items** – Bidders shall bid on all line items and not submit partial bids
- **Response Attachments**
 - Required Bid Form (this form, completed in its entirety)

Actual specification of any deficient item shall be noted on the bid sheet or separate attachment. If specifications of item bid differ from provided literature, deviation shall be documented and certified by the manufacturer as a regular production option.

PRICE: Bidders shall submit pricing on the City's online bidding portal (www.fayetteville-ar.gov/bids) in the format presented online.

Refer to the City's electronic bidding platform to submit bid pricing electronically.

Contact the City Purchasing Division to obtain documents necessary to submit a physical sealed bid; however, all bidders are strongly encouraged to submit on the City's online bidding portal.

Upon signing this Bid, the bidder certifies that:

1. Bidder has read and agrees to the requirements set forth in this proposal, including specifications, terms, standard conditions, and any pertinent information regarding the articles being bid on.
2. Unless otherwise noted and explained, the unit(s) bid and listed meets or exceeds all of these requirements as specified by The City of Fayetteville.
3. 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.

Unsigned bids will be rejected. Items marked * are mandatory for consideration.

*NAME OF FIRM: Petroleum Traders Corporation

Purchase Order/Payments shall be issued to this name

*D/B/A or Corporation Name Petroleum Traders Corporation

*BUSINESS ADDRESS: PO Box 2357

*CITY: Fort Wayne *STATE: IN *ZIP: 46801

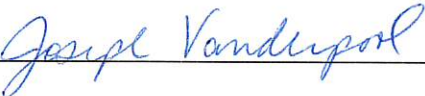
*PHONE: 888-637-7661 FAX: 260-203-3820

*E-MAIL: Jvanderpool@petroleumtraders.com

*TAX ID NUMBER: 35-1462227 UNIQUE ENTITY #: _____

*AR. SECRETARY OF STATE FILING NUMBER: 100064687

*BY: (PRINTED NAME) Joseph Vanderpool

*AUTHORIZED SIGNATURE: 

*TITLE: Contract Sales Manager *DATE: 2/14/2023

Acknowledge Addendums:

Addendum No. 1 Dated: 02/03/2023 Acknowledged by: JV

Addendum No. 2 Dated: 02/10/2023 Acknowledged by: JV

Addendum No. _____ Dated: _____ Acknowledged by: _____

Addendum No. _____ Dated: _____ Acknowledged by: _____

1. **SUBMISSION OF BID & BID EVALUATION:**

- a. Bids shall be reviewed following the stated deadline, as shown on the cover sheet of this document.
- b. Bidders shall submit bids based on documentation published by the Fayetteville Purchasing Division.
- c. Bidding documents and addenda shall be obtained at the City of Fayetteville Purchasing Division's electronic bidding platform at www.fayetteville-ar.gov/bids. All bids shall be received by the deadline, utilizing the electronic bidding software or as stated in the bid advertisement. 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>. No late bids shall be accepted. The City of Fayetteville shall not be responsible for lost or misdirected bids, or for failure of proposer's technical equipment.
- d. The City will not be responsible for misdirected bids. Bidder should call the Purchasing Office at 479.575.8256 to ensure correct receipt of bidding documents prior to opening time and date listed on the bid form.
- e. Bidders shall have experience in providing products and/or services of the same or similar nature.
- f. Bidder is advised that exceptions to any of the terms contained in this bid must be identified in its response to the bid. 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.
- g. Local time is defined as the time in Fayetteville, Arkansas on the due date of the deadline. Bids shall be received before the time as shown by the atomic clock located in the Purchasing Division Office.
- h. Bids will be evaluated and awarded based on the best interest of the City of Fayetteville. The City reserves the right to award bids in their entirety, none, or by line item.

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 bid must be sent in writing via e-mail to the Purchasing Agent. Responses to questions may be handled as an addendum if the response would provide clarification to the requirements of the bid. 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 bid made or given prior to the award of the contract.

3. **DESCRIPTION OF SUPPLIES AND SERVICES:**

Any reference to a particular brand or manufacturer is done in an effort to establish an acceptable level of quality for this project. Brands or manufacturers that are included in bid that are of at least equal quality,

size, design, and specification as to what has been specified, will be acceptable for consideration only if approved by the City of Fayetteville Purchasing Division. The City of Fayetteville reserves the right to accept or reject any requested equal.

4. RIGHTS OF CITY OF FAYETTEVILLE BID PROCESS:

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

- a. The City of Fayetteville reserves the right to select the bid that it believes will serve the best interest of the City.
- b. The City of Fayetteville reserves the right to accept or reject any or all bids.
- c. The City of Fayetteville reserves the right to cancel the entire bid.
- d. The City of Fayetteville reserves the right to remedy or waive technical or immaterial errors in the invitation to bid or in bids submitted.
- e. The City of Fayetteville reserves the right to request any necessary clarifications, additional information, or data without changing the terms of the bid.

5. COSTS INCURRED BY BIDDERS:

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

6. CONFLICT OF INTEREST:

- a. The bidder 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 "Authority of City Employee to Contract with the City".
- b. All bidders shall promptly notify Amanda Beilfuss, City 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 bidder'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 bidder 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 bidder. The City agrees to communicate with the bidder its opinion via e-mail or first-class mail within thirty days of receipt of notification.

7. WITHDRAWAL OF PROPOSAL:

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

8. LATE PROPOSAL OR MODIFICATIONS:

Bid modifications received after the time set for the bid 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. Bidders should call the Purchasing Division at (479) 575-8256 to ensure receipt of their submittal documents prior to opening time and date listed.

9. **LOCAL, STATE, AND FEDERAL COMPLIANCE REQUIREMENTS:**

- a. The laws of the State of Arkansas apply to any purchase made under this bid. Bidders shall comply with all local, 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.
- b. Pursuant to Arkansas Code Annotated §22-9-203 The City of Fayetteville encourages all *qualified* small, minority and women business enterprises to bid on and receive contracts for goods, services, and construction. Also, City of Fayetteville encourages all general contractors to subcontract portions of their contract to *qualified* small, minority and women business enterprises.

10. **PROVISION FOR OTHER AGENCIES:**

Unless otherwise stipulated by the bidder, the bidder 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.

11. **COLLUSION:**

The Proposer, by affixing his or her signature to this proposal, agrees to the following: "bidder certifies that his or her bid 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."

12. **RIGHT TO AUDIT, FOIA, AND JURISDICITON:**

- a. The City of Fayetteville reserves the privilege of auditing a vendor's records as such records relate to purchases between the City and said vendor.
- 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 in Washington County, Arkansas with Arkansas law applying to the case.

13. **CITY INDEMNIFICATION:**

The successful bidder(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 goods or any part thereof covered by this order, and such obligation shall survive acceptance of the goods and payment thereof by the City.

14. **VARIANCE FROM STANDARD TERMS & CONDITIONS:**

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

15. **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), not later than seven days prior to the deadline. Persons needing translation of this document shall contact the City of Fayetteville, Purchasing Division, immediately.

16. **PROCUREMENT POLICY FOR RECYCLED MATERIALS:**

The City of Fayetteville wishes to encourage its bidders to use recycled products in fulfilling contractual obligations to the City and that such practices will serve as a model for other public entities and private sector companies.

17. **PAYMENTS AND INVOICING:**

The bidder must specify in their bid the exact company name and address which must be the same as invoices submitted for payment as a result of award of this bid. Further, the successful bidder 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 bid. Payment will be made within thirty days of invoice received. The City of Fayetteville is very credit worthy and will not pay any interest, fees, or penalty for untimely payments. **Payments can be processed through bidder's acceptance of Visa at no additional costs to the City for expedited payment processing.** The City will not agree to any nonrefundable deposit or retainer that would remain property of the bidder even if the hourly work actually performed by the bidder would not justify such fee.

The City will pay the awarded bidder based on unit prices provided on invoicing. Progress payments will be made after approval and acceptance of work and submission of invoice. Payments will be made within 30 days of accepted invoice.

18. **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 vendor of such occurrence and contract shall terminate of the last day of the current fiscal period without penalty or expense to the City.

19. 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 bidder intends to subcontract a portion of this work, the bidder shall disclose such intent in the bid submitted as a result of this bid.
- 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. The right to terminate this contract, which shall not be unreasonably exercised by the City, shall include, but not be limited to, instances in which a corporate acquisition and/or merger represent a conflict of interest or are contrary to any local, state, or federal laws. Action by the City awarding a proposal to a firm that has disclosed its intent to assign or subcontract in its response to the bid, without exception shall constitute approval for purpose of this Agreement.

20. NON-EXCLUSIVE CONTRACT:

Award of this bid shall impose no obligation on the City to utilize the vendor 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-term contracts, this provision shall apply separately to each item.

21. 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.

22. ADDITIONAL REQUIREMENTS:

The City reserves the right to request additional services relating to this bid from the bidder. 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.

23. ADD OR DELETE LOCATIONS OR SERVICES:

The City reserves the right to unilaterally add or delete locations and/or services, either collectively or individually, at the City's sole option, at any time after award has been made as may be deemed necessary or in the best interests of the City. In such case, the Contractor(s) will be required to provide services to this contract in accordance with the terms, conditions, and specifications.

24. **INTEGRITY OF BID DOCUMENTS:**

Bidders shall use the original bid form(s) provided by the Purchasing Division and enter information only in the spaces where a response is requested. Bidders may use an attachment as an addendum to the bid form(s) if sufficient space is not available on the original form for the bidder to enter a complete response.

Any modifications or alterations to the original documents by the bidder, whether intentional or otherwise, will constitute grounds for rejection of such response. Any such modifications or alterations a bidder wishes to propose shall be clearly stated in the bidder's response and presented in the form of an addendum to the original bid documents.

25. **PRICING**

The City reserves the right to re-evaluate bidders in their standing in the event of a vendor price increase.

26. **OTHER GENERAL CONDITIONS:**

- a. Bidder is presumed to be familiar with all federal, state, and city laws, ordinances, and regulations which in any manner affect those engaged or employed in the Work, or the materials or equipment used, or that in any way affect the Work and shall in all respects comply with said laws, ordinances, and regulations. No claim of misunderstanding or ignorance on the part of Bidder or Proposer will in any way serve to modify the provisions of the contract. No representations shall be binding unless embodied in the contract.
- b. Prices shall include all labor, materials, overhead, profit, insurance, shipping, freight, etc., to cover the products and services presented. ***Sales tax shall not be included in the bid price.*** Applicable Arkansas sales tax laws will apply when necessary but will not be considered in award of this project.
- c. Each bidder should state the anticipated number of days from the date of receipt of an order for delivery of services to the City of Fayetteville.
- d. Bidders must provide the City with their bids signed by an employee having legal authority to submit bids on behalf of the bidder. The entire cost of preparing and providing responses shall be borne by the bidder.
- e. The City reserves the right to request any additional information it deems necessary from any or all bidders after the submission deadline.
- f. The request for bid 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 bidder in preparation. It shall be clearly understood that any costs incurred by the Bidder in responding to this solicitation is at the bidder's own risk and expense as a cost of doing business. The City of Fayetteville shall not be liable for reimbursement to the Bidder for any expense so incurred, regardless of whether or not the submittal is accepted.
- g. If products, components, or services other than those described in this bid document are proposed, the bidder must include complete descriptive literature for each. All requests for additional information must be received within five working days following the request.
- h. NOTE: 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 bidders to be on equal bidding terms.

- i. 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.
 - j. Any information provided herein is intended to assist the bidder in the preparation of proposals necessary to properly respond to this bid. The bid 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 bid's content or to exclude any relevant or essential data.
 - k. Bidders irrevocably consent that any legal action or proceeding against it under, arising out of or in any manner relating to this Contract shall be prevailed 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.
 - l. The successful bidder 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 bidder 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 is agreed that the right of the assignee in and to any monies due or to become due to the successful bidder 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.
 - m. The successful bidder'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 bidder 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 City of Fayetteville.
27. **INVOICING:** All invoices shall be presented to the City with the minimum information listed below.
- a. City Department that ordered the materials or services
 - b. Order Date
 - c. Delivery date or the date of services
 - d. Name of the City Employee that requested or picked up the goods, materials, or service
 - e. Bid Number that applies to the purchase and invoices. Amounts in the bid shall match invoicing.

28. ATTACHMENTS TO BID DOCUMENTS:

- a. Appendix A – Fuel Tank Locations

City of Fayetteville
Bid 23-18, Bulk Fuel
Specification Requirements

1.0 GENERAL:

- 1.1 The City of Fayetteville intends to establish a term contract to supply and deliver fuel products (gasoline and diesel on an as needed basis to various locations in the City of Fayetteville).
- 1.2 All product(s) bid shall meet or exceed the minimum requirements, or they will be deemed incomplete and will not be considered for bid award.
- 1.3 All specifications written are to minimums, unless otherwise noted.
- 1.4 All bulk tank wagon delivery trucks shall have Weights and Measures certified meters. Copies of current certificates shall be provided.
- 1.5 Vendor warrants, represents, and assures that the products and services to be provided shall conform in all respects to the requirements of the specifications.
- 1.6 To ensure availability, vendor shall have fuel supply contracts with a minimum of two (2) major suppliers.
- 1.7 Quantities listed are approximate anticipated annual requirements based on prior purchases.
- 1.8 Bidder agrees to sell other automotive fuel products required for specific applications not listed in this bid but available from contracted suppliers at a price not to exceed the same cost factor of the highest per unit markup listed in this bid. (Example: Site C - 100 Octane Aviation Fuel).
- 1.9 The City reserves the right to secure from another source if needed product cannot be delivered within the specified time.

2.0 TERM:

- 2.1 Contract shall be for a term of one (1) year from date of award. Contract may be extended for four (4) additional one-year terms upon mutual agreement of the City and the vendor.
- 2.2 The City may terminate this contract or any part hereof with a seven (7) day notice for cause in the event of any default by the Contractor, or if the Contractor fails to comply with any of the terms and conditions of this contract. Late deliveries, deliveries of products which are defective or do not conform to this contract, unsatisfactory performance as judged by the Contract Administrator, and failure to provide City, upon request, with adequate assurances of future performance shall all be causes allowing City to terminate this contract for cause. In the event of termination for cause, City shall not be liable to Contractor for any amount.

3.0 INSURANCE:

- 3.1 Contractor agrees to comply with all applicable City ordinances and state and federal laws and regulations.
- 3.2 If any work under this agreement is subcontracted in any way, Contractor shall execute written agreement with Subcontractor containing the same Indemnification Clause and Insurance Requirements set forth herein protecting City of Fayetteville and Contractor. Contractor shall be responsible for executing the agreement with Subcontractor and obtaining Certificates of Insurance verifying the insurance requirements.
- 3.3 Prior to commencing any work or services under this Contract, Contractor shall furnish City of Fayetteville with Certificate(s) of Insurance, or formal endorsements as required by this Contract, issued by Contractor's insurer(s) as evidence that policies are placed with acceptable insurers as specified herein and provide the required coverage, conditions, and limits of coverage and that such coverage and provisions are in full force and effect. If a Certificate of Insurance is submitted as verification of coverage, City of Fayetteville shall reasonably rely upon the Certificate of Insurance as evidence of coverage, but such acceptance and reliance shall not waive or alter in any way the insurance requirements or obligations of this agreement. If any of the above cited policies expire during the life of this Contract, it shall be Contractor's responsibility to forward renewal Certificates within forty-eight (48) hours after the renewal date containing all the aforementioned insurance provisions. Certificates shall specifically cite the following provisions:
 - a. Commercial General Liability
 - i. Contractor shall maintain Commercial General Liability insurance with a limit of not less than \$1,000,000 for each occurrence.
 - ii. The policy shall cover liability arising from premises, operations, independent contractors, products-completed operations, personal injury and advertising injury.
 - b. Contractor shall maintain Business Automobile Liability insurance with a limit of \$1,000,000 each accident on Contractor's owned, hired, and non-owned vehicles assigned to or used in the performance of the Contractor's work or services under this Contract.
 - c. Contractor shall maintain Workers Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of Contractor's employees engaged in the performance of work or services under this Contract.

4.0 RECORDS AND AUDIT RIGHTS:

- 4.1 Contractor's records (hard copy, as well as computer readable data), and any other supporting evidence deemed necessary by the City to substantiate charges and claims related to this contract shall be open to inspection and subject to audit and/or reproduction by City's authorized representative to the extent necessary to adequately permit evaluation and verification of cost of the work, and any invoices, change orders, payments or claims submitted by the Contractor or any of his payees pursuant to the execution of the contract.

- 4.2 The City's authorized representative shall be afforded access, at reasonable times and places, to all of the Contractor's records and personnel pursuant to the provisions of this article throughout the term of this contract and for a period of three years after final payment.

5.0 MINIMUM SPECIFICATIONS:

- 5.1 Minimum standards shall be determined in accordance with the American Society for Testing and Materials (ASTM). All fuel must comply with provisions of the "Federal Clean Air Act" and any subsequent revisions as amended.

5.2 UNLEADED REGULAR GASOLINE

- a. Unleaded regular gasoline shall meet or exceed specifications of ASTM D949
- b. Minimum Octane rating – eighty-seven (87)
- c. Gasoline shall contain no ethanol

5.3 ULTRA LOW SULPHUR RED DYED No. 2 DIESEL FUEL

- a. The Diesel Fuel shall meet or exceed specifications of ASTM D975
- b. Minimum cetane rating of forty-five (45)
- c. If additives are added to reach cetane number, the cost of such additives shall be included in the bid pricing. The City shall pay no extra cost for additives. If additives are included, please disclose such on bid form.

6.0 ADDITIONAL INFORMATION REQUIRED WITH BID:

- 6.1 Each bidder shall attach information sheets containing the following minimum information in order to determine the best service, support, and price offer for the City of Fayetteville:

- a. Company name
- b. Office address
- c. Name of officers or majority owners
- d. Number of owned transport tanker units
- e. Number of owned tank wagon units
- f. Name, address and contact information of all currently contracted transporters

- 6.2 Bidder shall provide the following information with bid:

- a. Provide a listing of all contracted fuel suppliers
- b. Provide a listing of all contracted terminals in the NWA and/or Fort Smith area
- c. Provide the source of third-party price information

- 6.3 Cancellation of a fuel supplier or terminal that factored into low bid award may be cause for contract cancellation.

- a. Additional suppliers may be added upon notification of the City.

6.4 The cost basis for fuel deliveries shall be the gross rack average price as reported in the Oil Price Information Service (OPIS) newsletter, which is published every Monday. This index contains rack prices confirmed the prior Thursday evening at 5:59 p. m. EST all year round except Thanksgiving, when the prices are confirmed on Wednesday at 5:59 p.m. EST. This shall include lowest regional fuel price. The bid form contains markup pricing for each type of fuel. This markup shall be added to the OPIS price to arrive at the total price charged to the City. The City shall pay NO additional fees, surcharges, etc. **No price increase shall be allowed in this contract.**

- a. These prices and listed quantity estimates will be used to determine a bid price to which margin price will be added to determine the final bid price.

6.5 Copies of actual purchase invoices on dates indicated shall be provided with the bid.

7.0 CONTRACT BULK FUEL PRICING:

- 7.1 **The contract price for all fuel shall be the margin price (in cents per gallon, to a maximum of four decimal places) for each line item, to be added to, the listed gross OPIS rack average price as described. That price will be used for all deliveries until the following Friday.**
- 7.2 Margin prices shall include all costs of the contractor in performance of the contract to include overhead, profit, delivery and unloading fuel into the applicable storage tank and any other cost.
- 7.3 Additional charges not specifically outlined in this bid (additional handling, split load, split drop, etc.) will not be allowed unless listed and attached to the bid. Listed charges will be considered in final bid award.
- 7.4 The margins bid shall to remain firm for the entire contract period.
- 7.5 No taxes are to be included in the contract prices. Applicable taxes shall be itemized and billed as a separate item on invoices.

8.0 BULK FUEL DELIVERY METHOD:

- 8.1 All orders will be placed by authorized city staff by phone, FAX, or other mutually agreed process.
- 8.2 All orders shall be filled no later than the second business day following date of order.
- 8.3 Order quantities will allow for full tanker delivery except locations where specified tank size will not accommodate.
- 8.4 Site A gasoline orders will be for split tanker with diesel delivery at same location or split tanker with Site B. Charges (if any) for these services shall be clearly listed in attachment to the bid.
- 8.5 Contractor shall accommodate for delivery into above ground tanks where specified.
- 8.6 Delivery times shall be coordinated with each delivery location.

9.0 BULK FUEL DELIVERY TICKET:

9.1 A delivery ticket containing the following information shall be provided at the time of each delivery:

- a. Contractor's name
- b. Address
- c. Delivery location and tank
- d. Type of fuel
- e. Grade of fuel
- f. Terminal
- g. Supplier
- h. Bill of lading fuel quantity (net gallons)
- i. Reading prior to unloading
- j. Reading following unloading

9.2 The City shall only authorize payment for the actual (net) quantity of fuel delivered to each site.

9.3 Company driver and City personnel shall both sign and date the delivery ticket.

10.0 BILLING (MUST BE PROVIDED WITHIN 24 HOURS OF DELIVERY):

10.1 All invoices shall clearly outline the following:

- a. Contractor's name
- b. Address
- c. Delivery location and tank
- d. Type of fuel
- e. Terminal
- f. Fuel supplier
- g. OPIS price
- h. Margin price (price bid)
- i. Applicable taxes
- j. Valid Purchase Order Number.
- k. Net Gallons Delivered
- l. All invoices must be accompanied by the following information:
- m. Copy of Terminal Bill of Lading
- n. Copy of Suppliers Invoice

Tank Size (Gallons)	Site	Site Description	Site Address	Tank Type	Estimated Monthly Usage (Gallons)	Fuel Type
15,000	A	Fleet Operations	1525 S. Happy Hollow Rd.	Above Ground	25,000	#2 Dyed Ultra Low Sulfur Diesel
10,000	A	Fleet Operations	1525 S. Happy Hollow Rd.	Above Ground	11,000	Unleaded 87 Octane
10,000	B	City Hall	125 N. Church St.	Under Ground	8,000	Unleaded 87 Octane
550	C	Airport	4500 S. School Ave.	Above Ground	300	#2 Dyed Ultra Low Sulfur Diesel
1,000	C	Airport	4500 S. School Ave.	Above Ground	400	Unleaded 87 Octane
1,000	*D	Westside WWTP	15 Broyles Rd.	Above Ground	1,700	Unleaded 87 Octane
3,000	*D	Westside WWTP	15 Broyles Rd.	Above Ground		#2 Dyed Ultra Low Sulfur Diesel
6,000	E	Noland WWTP	1400 N. Fox Hunter Rd.	Under Ground	400	#2 Dyed Ultra Low Sulfur Diesel
3,000	E	Noland WWTP	1400 N. Fox Hunter Rd.	Above Ground		#2 Dyed Ultra Low Sulfur Diesel
2,000	E	Noland WWTP	1400 N. Fox Hunter Rd.	Above Ground		#2 Dyed Ultra Low Sulfur Diesel
1,000	E	Noland WWTP	1400 N. Fox Hunter Rd.	Above Ground		Unleaded 87 Octane
6,000	E	Noland WWTP	1400 N. Fox Hunter Rd.	Under Ground	400	#2 Dyed Ultra Low Sulfur Diesel
250	F	Lift Station #5	3896 N. Gregg St.	Above Ground	21	#2 Dyed Ultra Low Sulfur Diesel
200	G	Lift Station #6	3021 N. Old Wire Rd.	Above Ground	17	#2 Dyed Ultra Low Sulfur Diesel
3,000	J	Lift Station #7	2065 N. Sunshine Rd.	Above Ground		#2 Dyed Ultra Low Sulfur Diesel
250	H	Lift Station #8	729 W. North St.	Above Ground	21	#2 Dyed Ultra Low Sulfur Diesel
250	I	Lift Station #9	1336 N. Porter Rd.	Above Ground	21	#2 Dyed Ultra Low Sulfur Diesel

Bid 23-18, Addendum 1



CITY OF
FAYETTEVILLE
ARKANSAS

Date: Friday, February 03, 2023

To: All Prospective Vendors

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

RE: Bid 23-18, Bulk Fuel

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 Bid.
BIDDERS SHALL ACKNOWLEDGE THIS ADDENDUM ON THE DESIGNATED LOCATION ON THE BID FORM.

1. CLARIFICATIONS – The following additional information and clarifications are being provided to assist bidders:
 - a. Regarding section 6.2 of the bid form, gross rack average price shall be from Fort Smith, AR.
 - b. Regarding section 8.1 of the bid form, City of Fayetteville staff may also place orders by email.
 - c. Regarding section 8.2 of the bid form, all orders shall be filled within 36 hours of receiving order.
2. Bid Line Items
 - a. Item notes on the 'Schedule A' and 'Schedule B' line item package header have been edited to read as "This markup price shall be added to the WEEKLY PUBLISHED OPIS average rack price (Fort Smith, AR location) to arrive at the total price charged to the City."

Bid 23-18, Addendum 2



CITY OF
FAYETTEVILLE
ARKANSAS

Date: Friday, February 10, 2023

To: All Prospective Vendors

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

RE: Bid 23-18, Bulk Fuel

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 Bid.
BIDDERS SHALL ACKNOWLEDGE THIS ADDENDUM ON THE DESIGNATED LOCATION ON THE BID FORM.

1. QUESTIONS – The following are questions received and answered by the corresponding City Department:

- a. Question: If a split occurs, how many sites are allowed to be split per delivery?
i. Answer: Two (2) sites will be allowed
- b. Question: If a split occurs, how many products are allowed to be split per delivery?
i. Answer: Two (2) products are allowed
- c. Question: How often are deliveries split between multiple locations?
i. Answer: Approximately one (1) load every three (3) weeks
- d. Question: How often are deliveries split with multiple products?
i. Answer: Weekly
- e. Question: Are Vendors required to submit a differential for each line item on this bid?
i. Answer: No, that is not required
- f. Question: Does the City require winter additives?
i. Answer: The City supplies diesel additive to be put in at time of delivery
- g. Question: When is the expected award date and the start and end dates of this contract?
i. Answer: The current contract expires April 03, 2023. It is anticipated that the new contract will go to Fayetteville City Council for approval on March 21, 2023. The new contract shall begin April 04, 2023 and last for one (1) year with option for four (4) renewals

- h. Question: Are any locations not able to receive a transport delivery (18-wheel truck)? If so, which locations?
 - i. Answer: *There are two (2) locations that will allow 18-wheeled transport: 115 S. Church St. and 1525 S. Happy Hollow Rd. The South Church Street location is easier to access first thing in the morning due to downtown traffic. The Happy Hollow Road location is accessible anytime.*
- i. Question: Which locations can only be serviced via small tank wagon truck?
 - i. Answer: *All other locations outside of the two (2) listed above.*
- j. Question: Will the City be reading off the pricing bid in the bid opening or just the names of bidders?
 - i. Answer: *Pricing submitted with each bid along with the names of the bidders will be read allowed at the bid opening. The bid opening will be held in person in room #111 of Fayetteville City Hall and will be livestreamed using the City of Fayetteville's YouTube channel. Bid tabulation will be provided shortly after the bid opening on the online bidding portal.*

2. ATTACHMENTS:

- a. Attachment A – Recent Invoices & Bill of Lading
- b. Attachment B – Bid Tabulation for Bid 18-18
- c. Attachment C – Dyed Diesel Information (*the City does not have a list of additives used to meet minimum cetane rating of 45*)
- d. Attachment D – Jacobs Fuel Orders from 2022 (*there are too many variances to provide exact monthly amounts*)



PO Box 2357
Fort Wayne, IN 46801-2357
888-637-7661

Company Overview

Petroleum Traders Corporation has been a pure wholesaler of fuels since 1979. We are an experienced supplier of wholesale gasoline, premium, winter blend diesel, heating oil, as well as renewable fuels such as biodiesel and ethanol to government agencies across the country. Our resources include a host of large and small local and nationally recognized carriers to complete fuel deliveries. We have accounts with 90% of large and independent fuel refiners in the United States to better ensure availability of product in the event of difficulties within a region of the country.

Petroleum Traders maintains one of America's largest fuel distribution networks with supply points in 39 states nationwide. As a coast-to-coast pipeline shipper, we can satisfy your supply requirements through either delivery or direct terminal access throughout the continental US. Our supply spans the United States from coast to coast. We use a host of nationally recognized and local common carriers to facilitate delivery. Our supply sources include 90% of the major oil companies and large independent suppliers. Since its inception in 1979, our company has built its strength on a singular purpose: to meet and exceed the expectations of our customers in every aspect possible, including accountable service, quality products and customized pricing programs. Petroleum Traders Corporation is proud to be the largest pure wholesale fuel distributor in the country.

Petroleum Traders is an experienced supplier of wholesale gasoline, diesel fuel, heating oil, as well as renewable fuels such as biodiesel and E85 ethanol to government agencies. Working as either as a contract or spot supplier, we work alongside city, county, state, federal, and township government agencies to provide significant fuel cost savings and assist in budgeting with fuel price management. Petroleum Traders is familiar with and regularly participates in gasoline, diesel, and heating oil Request for Proposals (RFPs) and Invitation for Proposals (IFPs).

With Petroleum Traders, you're not only buying from a price leader, you're also getting the best proactive service in the business. Our prompt, responsive, and proactive customer service offers 24/7 communication to give you the attention you deserve. Emergency service is available as well to make sure you get the fuel you need when you need it the most.

Petroleum Traders Corporation consists of about 137 employees divided into various departments to ensure the satisfaction of our customers. The Contract Sales/Bid Department currently consists of (14) employees ranging in experience from 1 to 27 years. The combined experience of the departments paired with the guidance of our upper management team will ensure accurate and responsible service is provided.

Generally, 24 hours is all that is required to complete a delivery. Petroleum Traders Corporation makes every effort to provide consistent quality of service to its customers in times of national or local emergency and weather related natural disasters. Our resources include a stable of large and small local and nationally recognized carriers to complete fuel deliveries. Our carriers strive to fulfill all delivery requests as promptly as possible.



**PETROLEUM TRADERS
CORPORATION**

PO Box 2357

Fort Wayne, IN 46801-2357

Contract Sales Bid Department

All contact regarding bids or awarded contracts are handled by the Contract Sales Bid Department.

This will include all requests for fuel delivery as well as any questions about contract specifications, invoicing, pricing, taxes, or product information.

Orders can be placed by emailing bidorders@petroleumtraders.com, by calling **1-888-637-7661 (direct toll free line as well as texting option)**, or **1-800-348-3705 option 4 (toll free company line)**. Any staff member who answers will be able to assist you.

Company Representatives that will be servicing your fuel contract if awarded, include, but are not limited to, the following Contract Sales Specialists.

The current Bid staff includes the following members

Stephen Reuille

Adam Carteaux

Bret Rhen

Kevin Smith

Brierra Young

Ethan Drake

Marjie Alves

Kara Clark

Cassidy Thompson

Isaac Newman

Savannah Kern

Joseph Vanderpool is the Contract Sales/Bids Manager. His email is jvanderpool@petroleumtraders.com.

For our customer's convenience, Petroleum Traders Corporation may be reached 24 hours a day, 7 days a week, 365 days a year. During normal business hours of 7AM to 5PM we may be reached at 888-637-7661.

For after hours, weekends, or holidays dial **1-800-348-3705 option 1** for the on call member of our dispatch staff and leave a message. All calls are returned within one hour.

Carriers to be Used

Star Transport

3201 E. Highland

Jonesboro, AR

833-413-7827

Generations Transport / LittleField Oil

3403 Cavanaugh Road

Fort Smith, AR 72918

479-646-5243

Fuel Suppliers

HWRT Oil Company

Coffeyville Resources

HollyFrontier Refining

Fuel Marketing

Apex Oil Company

TransMontaigne

Valero

Terminals

Fort Smith, AR – Magellan

Rogers, AR - Magellen

[Return](#)
[No Bid](#)
[Documents](#)
[Response History](#)
[Bid History](#)
[Error Check Response](#)

Bid Number Bid 23-18 Addendum 2 (Bulk Fuel)

Close Date & Time 2/15/2023 03:00:00 PM (ET)

Time Left 1 days 5 hours 7 minutes 33 seconds

Response Status **NOT SUBMITTED - To complete your response, you must click 'Submit Response' in the Response Submission tab.**



[Event Details](#)
[Questions](#)
[Activities](#)
[Attachments](#)
[Line Items](#)
[Response Attachments](#)
[Response Submission](#)

Bid Line Items

[Save](#)
[Error Check](#)

Response Total: \$1,313.20

Save Successful: 2/14/2023 09:52:14 AM (ET)

#	Specification	Quantity	UOM	Response	Extended
1	Schedule A (Full Tank Deliveries)	1			\$8.20
Item Note: Total Base Bid does not include cost per gallon for weekly rack price charged based on the index. Sales tax shall not be included in the bid price. Applicable Arkansas sales tax laws will apply as necessary but will not be considered in award of this project.					
Add Notes					

Line items are formatted for bidders to provide markup pricing for each item. This markup price shall be added to the WEEKLY PUBLISHED OPIS average rack price (Fort Smith, AR location) to arrive at the total price charged to the City. The City shall pay NO additional fees, surcharges, etc.

Package Items

#	Specification	Quantity	UOM	Response	Extended
1.1	#2 Dyed Ultra Low Sulfur Diesel Price as Mark Up PER GALLON (Use 4 decimals)	26000	Gallons	-0.0033*	\$-85.80
Add Notes					
1.2	Unleaded 87 Octane Gasoline Price as Mark Up PER GALLON (Use 4 decimals)	20000	Gallons	0.0047*	\$94.00
Add Notes					

2 Schedule B (Bob-Tail Deliveries - No 100 Octane)

1

Item Note: Total Base Bid does not include cost per gallon for weekly rack price charged based on the index. Sales tax shall not be included in the bid price. Applicable Arkansas sales tax laws will apply as necessary but will not be considered in award of this project.

\$1,305.00

[Add Notes](#)

Line items are formatted for bidders to provide markup pricing for each item. This markup price shall be added to the WEEKLY PUBLISHED OPIS average rack price (Fort Smith, AR location) to arrive at the total price charged to the City. The City shall pay NO additional fees, surcharges, etc.

Package Items

#	Specification	Quantity	UOM	Response	Extended
2.1	#2 Dyed Ultra Low Sulfur Diesel Price as Mark Up PER GALLON (Use 4 Decimals)	2500	Gallons	0.45*	\$1,125.00
Add Notes					
2.2	Unleaded 87 Octane Gasoline Price as Mark Up PER GALLON (Use 4 Decimals)	400	Gallons	0.45*	\$180.00



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HollyFrontier Refining

Fuel Marketing

Apex Oil Company

TransMontaigne

Valero

Terminals

Fort Smith, AR – Magellan

Rogers, AR - Magellen

EXECUTION OF BID:

All bidders shall submit this section, executed and completed in full by an authorized agent of the bidder. Bidders shall also complete submission through the City's online bidding portal (www.fayetteville-ar.gov/bids) and complete and submit all required information, which may include:

- **Bid Attributes**
- **Bid Line Items** – Bidders shall bid on all line items and not submit partial bids
- **Response Attachments**
 - Required Bid Form (this form, completed in its entirety)

Actual specification of any deficient item shall be noted on the bid sheet or separate attachment. If specifications of item bid differ from provided literature, deviation shall be documented and certified by the manufacturer as a regular production option.

PRICE: Bidders shall submit pricing on the City's online bidding portal (www.fayetteville-ar.gov/bids) in the format presented online.

Refer to the City's electronic bidding platform to submit bid pricing electronically.

Contact the City Purchasing Division to obtain documents necessary to submit a physical sealed bid; however, all bidders are strongly encouraged to submit on the City's online bidding portal.

Upon signing this Bid, the bidder certifies that:

1. Bidder has read and agrees to the requirements set forth in this proposal, including specifications, terms, standard conditions, and any pertinent information regarding the articles being bid on.
2. Unless otherwise noted and explained, the unit(s) bid and listed meets or exceeds all of these requirements as specified by The City of Fayetteville.
3. 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.

- X 1.) NO KNOWN RELATIONSHIP EXISTS
- _____ 2.) RELATIONSHIP EXISTS (Please explain): _____

- City of Fayetteville, AR
Bid 23-18, Bulk Fuel
Page 4 of 17

Unsigned bids will be rejected. Items marked * are mandatory for consideration.

*NAME OF FIRM: Petroleum Traders Corporation

Purchase Order/Payments shall be issued to this name

*D/B/A or Corporation Name Petroleum Traders Corporation

*BUSINESS ADDRESS: PO Box 2357

*CITY: Fort Wayne *STATE: IN *ZIP: 46801

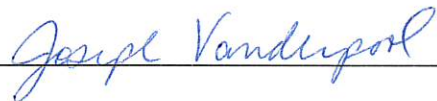
*PHONE: 888-637-7661 FAX: 260-203-3820

*E-MAIL: Jvanderpool@petroleumtraders.com

*TAX ID NUMBER: 35-1462227 UNIQUE ENTITY #: _____

*AR. SECRETARY OF STATE FILING NUMBER: 100064687

*BY: (PRINTED NAME) Joseph Vanderpool

*AUTHORIZED SIGNATURE: 

*TITLE: Contract Sales Manager *DATE: 2/14/2023

Acknowledge Addendums:

Addendum No. 1 Dated: 02/03/2023 Acknowledged by: JV

Addendum No. 2 Dated: 02/10/2023 Acknowledged by: JV

Addendum No. _____ Dated: _____ Acknowledged by: _____

Addendum No. _____ Dated: _____ Acknowledged by: _____

City of Fayetteville
Bid 23-18, Bulk Fuel
Contract – Between City of Fayetteville and Petroleum Traders Corporation
Terms: One (1) year with four (4) renewals

This contract executed this 21st day of March, 2023, between the City of Fayetteville, Arkansas, and Petroleum Traders Corporation. In consideration of the mutual covenants contained herein, the parties agree as follows:

1. Petroleum Traders Corporation at its own cost and expense shall furnish all labor, materials, supplies, machinery, equipment, tools, supervision, bonds, insurance, tax permits, and all other accessories and services necessary to complete items bid per Bid 23-18 as stated in Petroleum Traders Corporation bid proposal, and in accordance with specifications attached hereto and made a part hereof under Bid 23-18, all included herein as if spelled out word for word.
2. The City of Fayetteville shall pay Petroleum Traders Corporation Based on their bid proposal. Payments will be made after approval and acceptance of work and submission of invoice. Payments will be made approximately 30 days after receipt of invoice.
3. The Contract documents which comprise the contract between the City of Fayetteville and Petroleum Traders Corporation consist of this Contract and the following documents attached hereto, and made a part hereof:
 - A. Bid form identified as Invitation to Bid 23-18 with the specifications and conditions typed thereon.
 - B. Petroleum Traders Corporation bid proposal.
 - C. The Notice to Prospective Bidders and the Bid Tabulation.
4. These Contract documents constitute the entire agreement between the City of Fayetteville and Petroleum Traders Corporation and may be modified only by a duly executed written instrument signed by the City of Fayetteville and Petroleum Traders Corporation.
5. Petroleum Traders Corporation shall not assign its duties under the terms of this agreement.
6. Petroleum Traders Corporation agrees to hold the City of Fayetteville harmless and indemnify the City of Fayetteville, against any and all claims for property damage, personal injury or death, arising from Petroleum Traders Corporation performance of this contract. This clause shall not in any form or manner be construed to waive that tort immunity set forth under Arkansas Law.
7. Petroleum Traders Corporation shall furnish a certificate of insurance addressed to the City of Fayetteville, showing that he carries the following insurance which shall be maintained throughout the term of the Contract. Any work sublet; the contractor shall require the subcontractor similarly to provide worker's compensation insurance. In case any employee engaged in work on the project under this contract is not protected under Worker's Compensation Insurance, Petroleum Traders Corporation shall provide and shall cause each Subcontractor to provide adequate employer's liability insurance for the protection of

such of his employees as are not otherwise protected. The premiums for all insurance and the bond required herein shall be paid by Petroleum Traders Corporation.

Workmen's Compensation

Statutory Amount

Comprehensive General &
Automobile Insurance

Bodily Injury Liability

\$500,000 for each person injured.

\$1,000,000 for each accident.

Property Damage Liability

\$1,000,000 aggregate.

8. Petroleum Traders Corporation shall furnish proof of licensure as required by all local and state agencies.
9. This contract may be terminated by the City of Fayetteville or Petroleum Traders Corporation with 30 calendar days written notice.
10. This contract shall be effective from one year of the date of signed contract. The City reserves the right to automatically renew the contract for four (4) additional one (1) year terms. Renewals shall be automatic unless either Petroleum Traders Corporation or the City notifies the other of its intent to terminate the contract at the end of the contract period.
 - a. Projects exceeding \$35,000 will require additional approval from the Fayetteville City Council.
11. Freedom of Information Act: City of Fayetteville 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 photo copying costs pursuant to the FOIA may be assessed for this compliance.
12. Changes in scope or price: 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 Fayetteville City Council **in advance** of the change in scope, cost or fees.
13. Jurisdiction: Legal jurisdiction to resolve any disputes shall be **Washington County, Arkansas** with **Arkansas law** applying to the case.
14. Arbitration/Mediation: The City will not agree to be forced to mediate or arbitrate any dispute.
15. Interest charges for late payments by the City: The City of Fayetteville does NOT agree to any interest or penalty for "untimely" payments. The City will pay all invoices within 30 calendar days of accepted invoice.

WITNESS OUR HANDS THIS 27th DAY OF February, 2023.

CONTRACTOR NAME Petroleum Traders Corporation CITY OF FAYETTEVILLE, ARKANSAS

By: Joseph Vanderpool
Signature

By: _____
LIONELD JORDAN, Mayor

Joseph Vanderpool, Contract Sales Manager
Printed Contractor Name & Title

Glen Moore
ATTEST (Signature)

ATTEST: (Signature)

Glen Mooren
Company Secretary (Printed Name)

Kara Paxton, City Clerk, Treasurer

Business Address

PO Box 2357, Fort Wayne, IN 46801-2357
City, State & Zip Code

Date Signed: 2/27/2023

Date Signed: _____



MEETING OF MARCH 21, 2023

TO: Mayor Jordan and City Council

THRU: Alison Jumper, Director of Parks, Natural Resources and Cultural Affairs

FROM: Lee Farmer, Recreation Superintendent

DATE:

SUBJECT: A resolution to approve a budget adjustment in the amount of \$22,126 recognizing and allocating donation revenue from the Friends of YRCC to be used for the 2023 programs offered by the Yvonne Richardson Community Center.

RECOMMENDATION:

A resolution to approve a budget adjustment in the amount of \$22,126 recognizing and allocating donation revenue from the Friends of YRCC to be used for the 2023 programs offered by the Yvonne Richardson Community Center.

BACKGROUND:

Friends of YRCC is a non-profit focused on supporting the mission of the YRCC by raising funds for programming costs which in turn, allows YRCC to offer low cost and no cost opportunities to the disadvantaged youth and families that is traditionally serves. This donation will cover expenses for youth to participate in summer camp, afterschool programming, and after-school interest clubs. It also supports annual events such as an Easter Egg Hunt, Community Partners Networking Meetings, and Holiday Bingo.

DISCUSSION:

Friends of YRCC continues to offer funding support to YRCC programs, as well as community outreach, allowing for participation to take place despite financial barriers that exist among families of the Fayetteville community. Each semester, YRCC serves nearly 35 individuals K-6th in the YRCC Afterschool program. In addition, YRCC serves 75 individuals K-8th each week for eight weeks in the Summer Fun 4 Kids/Teens program.

BUDGET/STAFF IMPACT:

This will recognize \$22,126 for 2023 programs offered by the YRCC.

ATTACHMENTS: 2023 Program Donation SRF, 2023-501 BA Friends of YRCC



City of Fayetteville, Arkansas

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

Legislation Text

File #: 2023-501

A resolution to approve a budget adjustment in the amount of \$22,126 recognizing and allocating donation revenue from the Friends of YRCC to be used for the 2023 programs offered by the Yvonne Richardson Community Center.

A RESOLUTION TO APPROVE A BUDGET ADJUSTMENT IN THE AMOUNT OF \$22,126.00 REPRESENTING DONATION REVENUE FROM FRIENDS OF YRCC TO FUND THE 2023 PROGRAMS OFFERED AT THE YVONNE RICHARDSON COMMUNITY CENTER

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 \$22,126.00 recognizing donation revenue from Friends of YRCC to fund the 2023 programs offered at the Yvonne Richardson Community Center.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby expresses its sincere appreciation to Friends of YRCC for the donation.

City of Fayetteville Staff Review Form

2023-501

Item ID

3/21/2023

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

Lee Farmer

2/28/2023

PARKS & RECREATION (520)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

A resolution to approve a budget adjustment in the amount of \$22,126 recognizing and allocating donation revenue from the Friends of YRCC to be used for the 2023 programs offered by the Yvonne Richardson Community Center.

Budget Impact:

Various

General & Park Development

Account Number

Fund

33051

Parks & Recreation Donations

Project Number

Project Title

Budgeted Item? Yes

Total Amended Budget

\$ 61,125.00

Expenses (Actual+Encum)

\$ 2,209.06

Available Budget

\$ 58,915.94

Does item have a direct cost? No

Item Cost

\$ -

Is a Budget Adjustment attached? Yes

Budget Adjustment

\$ 22,126.00

Remaining Budget

\$ 81,041.94

V20221130

Purchase Order Number:

Previous Ordinance or Resolution #

Change Order Number:

Approval Date:

Original Contract Number:

Comments:

Budget Year	Division	Adjustment Number
2023	PARKS & RECREATION (520)	
	Requestor: Alan Bearden	

Budget adjustment relating to request to recognize and allocate the donation revenue received from Friends of YRCC (FOYRCC) through the Southeast Fayetteville Community Center on 2/23/2023 - these funds are to be used for the 2023 YRCC program activities offered by the Yvonne Richardson Community Center.

	COUNCIL DATE:	3/21/2023
	ITEM ID#:	2023-501
	Holly Black	
	3/1/2023 6:31 AM	
	Budget Division	Date
	TYPE:	D - (City Council)
	JOURNAL #:	
	GLDATE:	
	CHKD/POSTED:	/
RESOLUTION/ORDINANCE		

[illegible]



MEETING OF MARCH 21, 2023

TO: Mayor Jordan and City Council
THRU: Paul Becker, Chief Financial Officer
FROM: Cheryl Partain, Utilities Financial Services Mgr
DATE:
SUBJECT: RFP 22-11, Ray Klein, Inc. - Collection Services

RECOMMENDATION:

Staff recommends awarding Request for Proposal (RFP) 22-11 and authorizing a contract for a period of one (1) year with an option for four (4) automatic annual renewals for a total possible contract term of five (5) years to Ray Klein, Inc. DBA Professional Credit Service for collection services for the City of Fayetteville.

BACKGROUND:

The City of Fayetteville contracts for collection services for water/sewer and trash and recycling past due utility account bills and for past due miscellaneous City invoices processed by accounting. Past due utility account bills and miscellaneous City invoices are dropped to bad debt and sent to the collection agency monthly.

DISCUSSION:

The RFP proposals were received for RFP 22-11, Collection Services on November 29, 2022. The RFP selection committee selected three of the seven collection companies that submitted proposals for interviews and demos of their collection software. On January 5, 2023 the interviews and demos of the collection software were done, and the Collection Services RFP selection committee selected Ray Klein, Inc. DBA Professional Credit Service for collection services for the City. Professional Credit Service commission pricing is a flat fee and is not based on the age of the account collected by the agency that has been charged in the past. The pricing for both Primary Collections and Customer Payments Made Directly to the City is 25% of the balance of the account. This fee is lower than what the City is currently paying. Having this flat fee rather than a tiered fee based on the age of the account will be a better value for the City to have a consistent, lower rate than a tiered pricing system.

BUDGET/STAFF IMPACT:

Funds are available within the Water/Sewer Operational Funds and Recycling and Trash Operational Funds for the cost of the bad debt expenditure.

ATTACHMENTS: SRF - Ray Klein, Inc. - Credit Services, RFP 22-11, Contract - Collection Services - Signed, RFP 22-11, Appendix A - Scope of Work, RFP 22-11, Appendix B - City RFP, RFP 22-11, Appendix C - Ray Klein Submittal, RFP 22-11, Appendix D - Certificate of Insurance, RFP 22-11, Appendix E - Bonding Certificate and Licensing

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 #: 2023-510

RFP 22-11, Ray Klein, Inc. - Collection Services

A RESOLUTION TO AWARD RFP 22-11 AND AUTHORIZE A ONE YEAR CONTRACT WITH RAY KLEIN, INC. D/B/A PROFESSIONAL CREDIT SERVICE FOR ACCOUNT COLLECTION SERVICES WITH AUTOMATIC RENEWALS FOR UP TO FOUR (4) ADDITIONAL ONE 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 awards RFP #22-11 and authorizes a one year contract with Ray Klein, Inc. d/b/a Professional Credit Service for account collection services with automatic renewals for up to four (4) additional one year terms.

City of Fayetteville Staff Review Form

2023-510

Item ID

3/21/2023

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

Cheryl Partain

3/2/2023

UTILITIES FINANCIAL SVCS (710)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Staff recommends awarding Request for Proposal (RFP) 22-11 and authorizing a contract for a period of one (1) year with an option to renew for up to four (4) additional one year terms to Ray Klein, Inc. DBA Professional Credit Service for the collection services for the City of Fayetteville.

Budget Impact:

5400.710.1810-5319.00/5500.750.5000-
5319.00

Water/Sewer & Recycling and Trash Collection

Account Number

Fund

N/A

N/A

Project Number

Project Title

Budgeted Item? Yes

Total Amended Budget

\$ 353,868.00

Expenses (Actual+Encum)

\$ -

Available Budget

\$ 353,868.00

Does item have a direct cost? Yes

Item Cost

\$ -

Is a Budget Adjustment attached? No

Budget Adjustment

\$ -

Remaining Budget

\$ 353,868.00

V20221130

Purchase Order Number: _____

Previous Ordinance or Resolution # _____

Change Order Number: _____

Approval Date: _____

Original Contract Number: _____

Comments:



**CITY OF
FAYETTEVILLE
ARKANSAS**

CONTRACT FOR PROFESSIONAL SERVICES

RFP 22-11, Collection Services

between

City of Fayetteville, Arkansas

and

Ray Klein, Inc DBA Professional Credit Service

THIS AGREEMENT is executed this 21st day of March 2023, by and between the **City of Fayetteville** acting by and through its Mayor (hereinafter called CITY OF FAYETTEVILLE or CITY) and **Ray Klein, Inc DBA Professional Credit Service** (hereinafter called Professional Credit).

CITY OF FAYETTEVILLE from time to time requires professional services in connection with the benefits brokerage and consultation services. **Professional Credit** was selected through RFP 22-11 to provide the scope of work outlined and identified in this contract. Therefore, **City** and **Professional Credit** in consideration of their mutual covenants agree as follows:

Professional Credit shall serve as the Collection Agency to the CITY in those assignments to which this Agreement applies and shall give consultation and advice to CITY OF FAYETTEVILLE during the performance of services defined in the scope of work. All services shall be performed under the direction of a licensed firm - registered in the State of Arkansas and qualified in the particular field.

1. Contracted parties:

- a. This agreement shall be binding between all parties. Fees for services shall be provided as identified in appendices.

2. Entire Agreement and Exhibits: This Agreement sets forth the entire agreement and understanding between the parties on the subject matter of this Agreement. Parties shall not be bound by any conditions, definitions, representations or warranties with respect to the subject matter of this Agreement other than those as expressly provided herein. This agreement may be modified only by a duly executed written instrument signed by the **City** and **Professional Credit**.

- a. Appendices included under this agreement include the following and shall govern in the following order. Contract language in this document shall prevail over all exhibits:
 - i. **Appendix A:** Scope of Work & Fees
 - ii. **Appendix B:** City's Solicitation identified as RFP 22-11, Collection Services
 - iii. **Appendix C:** Professional Credit's RFP response
 - iv. **Appendix D:** Professional Credit's Certificate of Insurance
 - v. **Appendix E:** Professional Credit's Bonding Certificate and Licensing from the State Board of Collection Agencies

3. **Notices:** Any notice required under this Agreement shall be in writing, addressed to the appropriate party at the following addresses:
- a. **City of Fayetteville:** Attention: Mayor Lioneld Jordan, 113 W. Mountain, Fayetteville, AR 72701
 - b. **Ray Klein, Inc DBA Professional Credit Service:** Attention: Wade Isbell, 400 International Way, Ste. 100, Springfield, OR 97477
4. **Fees, Expenses, and Payments:**
- a. Total fees for collection services shall not exceed **twenty-five percent (25%) of collected debts** which includes the services and reimbursable allocations itemized in Appendix A. Progress payments shall be paid to the **Professional Credit** as described in **Appendix A**.
 - i. All services listed in **Professional Credit's** core services are included in the flat fee and **Professional Credit** shall not charge any additional fees.
 - b. **Payment Terms:** All **Professional Credit** invoices are payable upon approval and due within forty-five (45) calendar days. If a portion of an invoice or statement is disputed by CITY, the undisputed portion shall be paid. CITY OF FAYETTEVILLE shall advise **Professional Credit** in writing of the basis for any disputed portion of any invoice. CITY shall make reasonable effort to pay invoices within forty-five (45) calendar days of date the invoice is approved.
 - c. Monthly invoices for each calendar month shall be submitted to CITY OF FAYETTEVILLE or such parties as CITY OF FAYETTEVILLE may designate for Collection Agency consistent with **Professional Credit's** normal billing schedule. Once established, the billing schedule shall be maintained throughout the duration of the Project. Invoices shall be made in accordance with a format to be developed by **Professional Credit** and approved by CITY OF FAYETTEVILLE. Applications for payment shall be accompanied each month by the updated project schedule as the basis for determining the value earned as the work is accomplished. Final payment for professional services shall be made upon CITY OF FAYETTEVILLE'S approval and acceptance with the satisfactory completion of professional services for the Project.
 - d. **Final Payment:** Upon satisfactory completion of the work performed under this Agreement, as a condition before final payment under this Agreement, or as a termination settlement under this Agreement, **Professional Credit** shall execute and deliver to CITY OF FAYETTEVILLE a release of all claims against CITY OF FAYETTEVILLE arising under or by virtue of this Agreement, except claims which are specifically exempted by **Professional Credit** to be set forth therein.
 - i. Unless otherwise provided in this Agreement or by State law or otherwise expressly agreed to by the parties to this Agreement, final payment under this Agreement or settlement upon termination of this Agreement shall not constitute a waiver of CITY OF FAYETTEVILLE claims against **Professional Credit** or sureties under this Agreement.
5. **Approval of Agent:** The City reserves the right to require **Professional Credit** to replace an assigned agent with another agent of the same company if, in the opinion of the City staff, the agent is not rendering or is incapable of rendering the quality of service and cooperation required.
6. **Notices:** Any notice required to be given under this Agreement to either party to the other shall be sufficient if addressed and mailed, certified mail, postage paid, delivery, fax or e-mail (receipt confirmed), or overnight courier.

7. **Jurisdiction:** Legal jurisdiction to resolve any disputes shall be Arkansas with Arkansas law applying to the case.
8. **Venue:** Venue for all legal disputes shall be Washington County, Arkansas.
9. **Freedom of Information Act:** City of Fayetteville 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, **Professional Credit** 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 photo copying costs pursuant to the FOIA may be assessed for this compliance.
10. **Changes in Scope or Price:** 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.
11. **Omissions:** If **Professional Credit** fails to include or omits an item from the Contract Documents, which was fully anticipated to be included in the Project, thereby necessitating the need for a Change Order, **Professional Credit** will not receive a fee for work associated with the Change Order.
12. **Insurance:** **Professional Credit** shall furnish a certificate of insurance addressed to the City of Fayetteville, showing coverages for the following insurance which shall be maintained throughout the term of this agreement. Any work sublet to major subconsultants **Professional Credit** shall require the subconsultant to provide the insurance identified. In case any employee engaged in work on the project under this contract is not protected under Worker's Compensation Insurance, **Professional Credit** shall provide and shall cause each Subcontractor to provide adequate insurance for the protection of such of his employees as are not otherwise protected.
 - a. **Professional Credit** shall provide to the City certificates as evidence of the specified insurance presented in **Appendix D** within ten (10) calendar days of the date of this agreement and upon each renewal coverage.
 - b. Subconsultants shall maintain reasonable insurance including but not limited to worker's compensation, auto as applicable, general liability, errors and omissions, etc.
13. **Professional Responsibility:** **Professional Credit** will exercise reasonable skill, care, and diligence in the performance of services and will carry out its responsibilities in accordance with customarily accepted professional practices. CITY OF FAYETTEVILLE will promptly report to **Professional Credit** any defects or suspected defects in services of which CITY OF FAYETTEVILLE becomes aware, so **Professional Credit** can take measures to minimize the consequences of such a defect. CITY OF FAYETTEVILLE retains all remedies to recover for its damages caused by any negligence of **Professional Credit**.
 - a. **Professional Credit** will perform its duties, responsibilities and obligations with the care, skill, prudence and diligence that a prudent collection agency acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims under the circumstances prevailing.
 - b. **Conflict of Interest:** **Professional Credit's** engagement under this Agreement will not prevent it from taking similar engagements with other clients. **Professional Credit** will, nevertheless, exercise care and diligence to prevent any actions or conditions which could result in a conflict of interest.

- c. **Subcontractors: Professional Credit** may cause another person or entity, as a subcontractor of **Professional Credit** to provide some of the services required to be performed by **Professional Credit** hereunder; provided that **Professional Credit** shall remain responsible for all acts and omissions of any such subcontractors, each of which shall be bound by **Professional Credit's** obligations under this Agreement. **Professional Credit** shall seek prior written approval from the City for any subcontractors providing substantive consulting, professional or managerial services. Prior written approval shall not be required for clerical, office, secretarial, IT back-up, administrative or similar support services.

14. Responsibility of the City of Fayetteville

- a. CITY OF FAYETTEVILLE shall, within a reasonable time, so as not to delay the services of **Professional Credit**:
 - i. Provide full information as to the requirements for the Project.
 - ii. Assist **Professional Credit** by placing at **Professional Credit's** disposal all available information pertinent to the assignment including previous reports and any other data relative thereto.
 - iii. Assist **Professional Credit** in obtaining access to property reasonably necessary for **Professional Credit** to perform its services under this Agreement.
 - iv. Examine all studies, reports, sketches, cost opinions, proposals, and other documents presented by **Professional Credit** and render in writing decisions pertaining thereto.
 - v. Review all documents and provide written comments to **Professional Credit** in a timely manner.
 - vi. The City of Fayetteville's Utility Financial Services (UFS) Manager is the project representative with respect to the services to be performed under this Agreement. The UFS Manager shall have complete authority to transmit instructions, receive information, interpret and define policies and decisions with respect to materials, equipment, elements and systems to be used in the Project, and other matters pertinent to the services covered by this Agreement.

15. Period of Service: This Agreement will be effective **March 21, 2023** through **March 21, 2024** and renewed as follows, authorizing services hereunder.

- a. The City agrees to reserve the right to automatically renew the contract for four (4) additional one (1) year terms. Renewals shall be automatic unless either **Professional Credit** or the City notifies the other of its intent to terminate within ninety (90) calendar days prior to the end of the contract period.
- b. The provisions of this Agreement have been agreed to in anticipation of the orderly progress of the Project through completion of the services stated in the Agreement. **Professional Credit** will proceed with providing the authorized services immediately upon receipt of written authorization from CITY OF FAYETTEVILLE. Said authorization shall include the scope of the services authorized and the time in which the services are to be completed. The anticipated schedule for this project, if applicable, is included within **Appendix A**.

16. Debarment Certification: Professional Credit hereby provides debarment/suspension certification indicating compliance with the below Federal Executive Order. 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. **Professional Credit** hereby attests its principal is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

17. Termination:

- a. This Agreement may be terminated in whole or in part in writing by either party in the event of substantial failure by the other party to fulfill its obligations under this Agreement through no fault of the terminating party, provided that no termination may be effected unless the other party is given:
 - i. Not less than thirty (30) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate,
 - ii. An opportunity for consultation with the terminating party prior to termination.
- b. This Agreement may be terminated in whole or in part in writing by CITY OF FAYETTEVILLE for its convenience, provided that **Professional Credit** is given:
 - i. Not less than thirty (30) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate,
 - ii. An opportunity for consultation with the terminating party prior to termination.
- c. If termination for default is affected by CITY OF FAYETTEVILLE, an equitable adjustment in the price provided for in this Agreement shall be made, but
 - i. No amount shall be allowed for anticipated profit on unperformed services or other work,
 - ii. Any payment due to **Professional Credit** at the time of termination may be adjusted to cover any additional costs to CITY OF FAYETTEVILLE because of **Professional Credit's** default.
- d. If termination for default is affected by **Professional Credit**, or if termination for convenience is affected by CITY OF FAYETTEVILLE, the equitable adjustment shall include a reasonable profit for services or other work performed. The equitable adjustment for any termination shall provide for payment to **Professional Credit** for services rendered and expenses incurred prior to the termination, in addition to termination settlement costs reasonably incurred by **Professional Credit** relating to commitments which had become firm prior to the termination.
- e. Upon receipt of a termination action, **Professional Credit** shall:
 - i. Promptly discontinue all affected work (unless the notice directs otherwise),
 - ii. Deliver or otherwise make available to CITY OF FAYETTEVILLE all data, drawings, specifications, reports, estimates, summaries and such other information and materials as may have been accumulated by **Professional Credit** in performing this Agreement, whether completed or in process.

- f. Upon termination under sections above, CITY OF FAYETTEVILLE may take over the work and may award another party an agreement to complete the work under this Agreement.
- g. If, after termination for failure of **Professional Credit** to fulfill contractual obligations, it is determined that **Professional Credit** had not failed to fulfill contractual obligations, the termination shall be deemed to have been for the convenience of CITY OF FAYETTEVILLE. In such event, adjustments of the agreement price shall be made as provided in this agreement.

18. Delays

- a. In the event the services of **Professional Credit** are suspended or delayed by CITY OF FAYETTEVILLE or by other events beyond **Professional Credit's** reasonable control, **Professional Credit** shall be entitled to additional compensation and time for reasonable documented costs actually incurred by **Professional Credit** in temporarily closing down or delaying the Project.
- b. In the event the services are suspended or delayed by **Professional Credit**, City shall be entitled to compensation for its reasonable costs incurred in temporarily closing down or delaying the project. The City does not agree to waive its right to claim (in addition to direct damages) special, indirect, or consequential damages, whether such liability arises in breach of contract or warranty, tort (including negligence), strict or statutory liability, or any other cause of action.

19. Rights and Benefits

- a. **Professional Credit's** services shall be performed solely for the benefit of CITY OF FAYETTEVILLE and not for the benefit of any other persons or entities.

20. Dispute Resolution

- a. Scope of Paragraph: The procedures of this Paragraph shall apply to any and all disputes between CITY OF FAYETTEVILLE and **Professional Credit** which arise from, or in any way are related to, this Agreement, including, but not limited to the interpretation of this Agreement, the enforcement of its terms, any acts, errors, or omissions of CITY OF FAYETTEVILLE or **Professional Credit** in the performance of this Agreement, and disputes concerning payment.
- b. Exhaustion of Remedies Required: No action may be filed unless the parties first negotiate. If timely Notice is given as described in this agreement, but an action is initiated prior to exhaustion of these procedures, such action shall be stayed, upon application by either party to a court of proper jurisdiction, until the procedures in this agreement have been complied with.
- c. Notice of Dispute
 - i. For disputes arising prior to the making of final payment promptly after the occurrence of any incident, action, or failure to act upon which a claim is based, the party seeking relief shall serve the other party with a written Notice.
 - ii. For disputes arising within one year after the making of final payment, CITY OF FAYETTEVILLE shall give **Professional Credit** written Notice at the address listed in this agreement within thirty (30) calendar days after occurrence of any incident, accident, or first observance of defect or damage. In both instances, the Notice shall specify the nature and amount of relief sought, the reason relief should be granted, and the appropriate portions of this Agreement that authorize the relief requested.
 - iii. Negotiation: Within seven (7) calendar days of receipt of the Notice, the Project Managers for CITY OF FAYETTEVILLE and **Professional Credit** shall confer in an effort to

resolve the dispute. If the dispute cannot be resolved at that level, then, upon written request of either side, the matter shall be referred to the President of **Professional Credit** and the Mayor of CITY OF FAYETTEVILLE or his designee. These officers shall meet at the Project Site or such other location as is agreed upon within 30 calendar days of the written request to resolve the dispute.

21. Sufficient Funds: The CITY represents it has sufficient funds or the means of obtaining funds to remit payment to **Professional Credit** for services rendered by **Professional Credit**.

22. Publications:

- a. Recognizing the importance of professional development on the part of **Professional Credit** employees and the importance of **Professional Credit's** public relations **Professional Credit** may prepare publications, such as technical papers, articles for periodicals, promotional materials, and press releases, in electronic or other format, pertaining to **Professional Credit's** services for the Project. Such publications will be provided to CITY OF FAYETTEVILLE in draft form for CITY OF FAYETTEVILLE's advance review. CITY OF FAYETTEVILLE shall review such drafts promptly and provide CITY OF FAYETTEVILLE's comments to **Professional Credit**, CITY OF FAYETTEVILLE may require deletion of proprietary data or confidential information from such publications, but otherwise CITY OF FAYETTEVILLE will not unreasonably withhold approval. Approved materials may be used in a variety of situations and do not require additional review or approval for each use. The cost of **Professional Credit's** activities pertaining to any such publication shall be for **Professional Credit's** account.

23. Indemnification:

- a. **Professional Credit** shall indemnify, hold harmless and, not excluding the City's right to participate, defend the City and any of its officers, or employees from and against all liabilities, claims, actions, damages, losses and expenses, including without limitation reasonable attorneys' fees and costs, arising out of or resulting in any way from the performance of professional services for the City in **Professional Credit's** capacity as a broker/agency, and caused by any willful or negligent error, omission, or act of **Professional Credit** or any person employed by it or anyone for whose acts **Professional Credit** is legally liable.

24. Additional Responsibilities of Professional Credit:

- a. Review, approval, or acceptance of design drawings, specifications, reports and other services furnished hereunder by CITY shall not in any way relieve **Professional Credit** of responsibility for the technical adequacy of the work. Review, approval or acceptance of, or payment for any of the services by CITY shall not be construed as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.
- b. **Professional Credit** shall be and shall remain liable, in accordance with applicable law, for all damages to CITY OF FAYETTEVILLE caused by **Professional Credit's** negligent performance, except beyond the **Professional Credit's** normal standard of care, of any of the services furnished under this Agreement, and except for errors, omissions or other deficiencies to the extent attributable to CITY OF FAYETTEVILLE or CITY OF FAYETTEVILLE-furnished data.
- c. **Professional Credit's** obligations under this clause are in addition to **Professional Credit's** other express or implied assurances under this Agreement or State law and in no way diminish any other rights that CITY OF FAYETTEVILLE may have against **Professional Credit** for faulty materials, equipment, or work.

25. Audit and Access to Records:

- a. **Professional Credit** shall maintain books, records, documents and other evidence directly pertinent to performance of work under this Agreement in accordance with generally accepted accounting principles and practices consistently applied in effect on the date of execution of this Agreement.
- b. **Professional Credit** shall also maintain the financial information and data used by **Professional Credit** in the preparation of support of the cost submission required for any negotiated agreement or change order and send to CITY OF FAYETTEVILLE a copy of the cost summary submitted. CITY OF FAYETTEVILLE, or any of their authorized representatives shall have access to all such books, records, documents and other evidence for the purpose of inspection, audit and copying during normal business hours. **Professional Credit** will provide proper facilities for such access and inspection.
- c. Records shall be maintained and made available during performance on assisted work under this Agreement and until three years from the date of final payment for the project. In addition, those records which relate to any controversy arising out of such performance, 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.
- d. The CITY reserves the right to review, audit, and examine any and all records obtained by **Professional Credit** relating to the Scope of Work (Appendix A).
- e. This right of access clause (with respect to financial records) applies to:
 - i. Negotiated prime agreements:
 - ii. Negotiated change orders or agreement amendments affecting the price of any formally advertised, competitively awarded, fixed price agreement:
 - iii. Agreements or purchase orders under any agreement other than a formally advertised, competitively awarded, fixed price agreement. However, this right of access does not apply to a prime agreement, lower tier sub agreement or purchase order awarded after effective price competition, except:
 1. With respect to record pertaining directly to sub agreement performance, excluding any financial records of **Professional Credit**;
 2. If there is any indication that fraud, gross abuse or corrupt practices may be involved;
 3. If the sub agreement is terminated for default or for convenience.

26. Covenant Against Contingent Fees:

- a. **Professional Credit** warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement of understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by **Professional Credit** for the purpose of securing business. For breach or violation of this warranty, CITY OF FAYETTEVILLE shall have the right to annul this Agreement without liability or at its discretion, to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

27. Gratuities:

- a. If CITY OF FAYETTEVILLE finds after a notice and hearing that **Professional Credit** or any of **Professional Credit's** agents or representatives, offered or gave gratuities (in the form of entertainment, gifts or otherwise) to any official, employee or agent of CITY OF FAYETTEVILLE, or related third party contractor associated with this project, in an attempt to secure an agreement or favorable treatment in awarding, amending or making any determinations related to the performance of this Agreement, CITY OF FAYETTEVILLE may, by written notice to **Professional Credit** terminate this Agreement. CITY OF FAYETTEVILLE may also pursue other rights and remedies that the law or this Agreement provides. However, the existence of the facts on which CITY OF FAYETTEVILLE bases such finding shall be in issue and may be reviewed in proceedings under the Remedies clause of this Agreement.
- b. The CITY may pursue the same remedies against **Professional Credit** as it could pursue in the event of a breach of the Agreement by **Professional Credit**. As a penalty, in addition to any other damages to which it may be entitled by law, CITY OF FAYETTEVILLE may pursue exemplary damages in an amount, as determined by CITY, which shall be not less than three nor more than ten times the costs **Professional Credit** incurs in providing any such gratuities to any such officer or employee.

28. Clarification and Understanding of all parties:

- a. **Professional Credit** shall not assign its duties under the terms of this agreement without prior written consent of the City. Subconsultants identified in **Professional Credit's** response shall be permitted as being referenced herein.

29. Equal Employment Opportunity: The parties hereby incorporate by reference the Equal Employment Opportunity Clause required under 41 C.F.R. § 60-1.4, 41 C.F.R. § 60-300.5(a), and 41 C.F.R. § 60-741.5(a), if applicable.

- a. **Professional Credit** shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity, or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, protected veteran status or disability.
- b. **Professional Credit** and subconsultants certify that they do not maintain segregated facilities or permit their employees to perform services at locations where segregated facilities are maintained, as required by 41 CFR 60-1.8.

30. Pursuant to Arkansas Code Annotated §22-9-203 The City of Fayetteville encourages all qualified small, minority and women business enterprises to bid on and receive contracts for goods, services, and construction. Also, City of Fayetteville encourages all general contractors to subcontract portions of their contract to qualified small, minority and women business enterprises.

IN WITNESS WHEREOF, CITY OF FAYETTEVILLE, ARKANSAS by and through its Mayor, and RAY KLEIN, INC DBA PROFESSIONAL CREDIT SERVICE by its authorized officer has made and executed this Agreement as of the day and year first above written.

CITY OF FAYETTEVILLE, ARKANSAS

RAY KLEIN, INC DBA PROFESSIONAL CREDIT SERVICE

By: _____
LIONELD JORDAN, MAYOR

By:  _____
GINGER PATMORE, CHIEF FINANCIAL OFFICER

ATTEST:

By: _____
Kara Paxton, City Clerk

Date Signed: _____

Date Signed: 2/28/2023

CONTRACT FOR PROFESSIONAL SERVICES

RFP 22-11, Collection Services

APPENDIX A

Scope of Work & Fees

1. INTRODUCTION:

The City of Fayetteville engages **Ray Klein Inc, DBA Professional Credit Service** as the professional agency to provide the collection services described within this Appendix.

Ray Klein Inc, DBA Professional Credit Service offers several additional capabilities and areas of expertise compared to those offered by various other collection agencies.

2. SCOPE OF WORK:

A. Summary of Services:

- a. Collection of overdue water, sewer, and sanitation accounts, on a monthly basis (utility billing)
- b. Collection of overdue miscellaneous municipal accounts, as needed (accounts receivable billing)

B. **Ray Klein Inc, DBA Professional Credit Service** should be aware that all collected debts shall be turned over to the City of Fayetteville in full and then redistributed by the City of Fayetteville **Ray Klein Inc, DBA Professional Credit Service** at the rate of the contract agreement. The agency shall send payment to each City of Fayetteville division (i.e. Utilities Financial Services and Accounting) for the total amount of all collected debts for each division within fifteen (15) days after the end of each month. **Ray Klein Inc, DBA Professional Credit Service** shall provide the City with a remittance documenting the length each individual customer balance remitted was placed with the collection agency until collection to supplement each payment made to each City Division. The City of Fayetteville shall then redistribute the collection fee payment, via check, to **Ray Klein Inc, DBA Professional Credit Service** at the rate of the contract agreement within forty-five (45) days of receiving the agency's remittance.

C. If the City of Fayetteville collects on accounts previously turned over to **Ray Klein Inc, DBA Professional Credit Service**, the City will provide a listing of the collected accounts to **Ray Klein Inc, DBA Professional Credit Service** so the agency may update the account balances in their system and cease collection efforts on any fully paid account. Subject to the limitations in paragraph 2(I) of this Scope of Work, the agency shall be entitled to their collection fee for any amount collected by the City after the account has been turned over to the agency.

D. If the City of Fayetteville receives a notice of bankruptcy filing for an account previously turned over to **Ray Klein Inc, DBA Professional Credit Service**, the City will immediately notify the collection agency which shall immediately stop all collection efforts on the account. **Ray Klein Inc, DBA Professional Credit Service** shall turn the account back over to the City.

E. If **Ray Klein Inc, DBA Professional Credit Service** receives information that the responsible party for an account placed with the agency is deceased, **Ray Klein Inc, DBA Professional Credit Service** shall notify the City of Fayetteville and shall transfer the account back to the City of Fayetteville with no fees assessed.

F. **Ray Klein Inc, DBA Professional Credit Service** shall provide to the City of Fayetteville access to log into the agency's website. The website login access shall provide the status of the City of Fayetteville's accounts along with any collection activity performed by the agency.

- G. **Ray Klein Inc, DBA Professional Credit Service** shall conform to state laws regarding collection services from cities, including but not limited to Arkansas Code Ann. § 14-234-601 et seq. (Appendix A of RFP) and Arkansas Code Ann. § 14-229-103 (Appendix B of RFP).
- H. **Ray Klein Inc, DBA Professional Credit Service** shall conform to all local, state, and federal law and regulations, including, but not limited to, the Federal Fair Debt Collection Practices Act.
- I. All utility accounts collected by the Utilities Financial Services Division as a result of the procedures set forth in Arkansas Code Code Ann. § 14-234-601 et seq. (Appendix A of RFP) and Arkansas Code Ann. § 14-229-103 (Appendix B of RFP) shall become the property of the Utilities Financial Services Division with no fees assessed by the collection agency.

3. **PRICING:**

- a. **Ray Klein Inc, DBA Professional Credit Service** shall strive to make decisions based on what is best for the City. As such, **Ray Klein Inc, DBA Professional Credit Service's** compensation is structured as a flat collection fee. In addition, the City of Fayetteville Arkansas will be provided with many value-added collection services as part of the **Ray Klein Inc, DBA Professional Credit Service** service package.
- b. **Ray Klein Inc, DBA Professional Credit Service** shall receive 25% commission for primary collections and consumer payments made directly to the City.
 - i. All services listed in **Ray Klein Inc, DBA Professional Credit Service** Core Services are included in our flat fee and **Ray Klein Inc, DBA Professional Credit Service** shall not charge any additional fees.
 - ii. Any additional scope of work changes that result in additional fees shall have a change order approved by all parties in advance of work being conducted.



**CITY OF
FAYETTEVILLE
ARKANSAS**

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 22-11, Collection Services

DEADLINE: Tuesday, November 29, 2022 before 2:00 PM, local time

Pre-Proposal Conference: Tuesday, November 15, 2022 at 2:00 PM, via zoom

Sr. Purchasing Agent: Amanda Beilfuss, abeilfuss@fayetteville-ar.gov

DATE OF ISSUE AND ADVERTISEMENT: 11/06/2022

REQUEST FOR PROPOSAL RFP 22-11, Collection Services

No late proposals shall be accepted. RFP's shall be submitted through the City's third-party electronic bidding platform. Submitting through the City's electronic bidding platform is required. All bids shall be submitted in accordance with the attached City of Fayetteville specifications and bid documents attached hereto. Each bidder is required to fill in every blank and shall supply all information requested; failure to do so may be used as basis of rejection. Any bid, proposal, or statements of qualification will be rejected that violates or conflicts with state, local, or federal laws, ordinances, or policies.

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 Manager.

Name of Firm: _____

Contact Person: _____ Title: _____

E-Mail: _____ Phone: _____

Business Address: _____

City: _____ State: _____ Zip: _____

Signature: _____ Date: _____

City of Fayetteville, AR
Request for Proposal
RFP 22-11, Collection Services

The City of Fayetteville is seeking requests for proposal from qualified and experienced firms to provide Collection Services for miscellaneous municipal accounts for one (1) year with four (4) one-year renewal options, giving a possible contract term of five (5) years. Any questions concerning this solicitation process should be directed to Amanda Beilfuss, City of Fayetteville Sr. Purchasing Agent, at abeilfuss@fayetteville-ar.gov or by calling (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 **Tuesday, November 29, 2022 before 2:00 PM, Local Time** utilizing the City's electronic bidding software. All proposals are due before the time stated. Submitting electronically is required. No late proposals shall be accepted. 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 **Tuesday, November 15, 2022 at 2:00 PM** virtually via Zoom. Information regarding the pre-proposal conference is available on the project page on the City's electronic bidding platform. All interested parties are encouraged to attend.

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.

Pursuant to Arkansas Code Annotated §22-9-203 The City of Fayetteville encourages all *qualified* small, minority and women business enterprises to bid on and receive contracts for goods, services, and construction. Also, City of Fayetteville encourages all general contractors to subcontract portions of their contract to *qualified* small, minority and women business enterprises.

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, City Sr. Purchasing Agent
P: 479.575.8220 Email: abeilfuss@fayetteville-ar.gov
TDD (Telecommunications Device for the Deaf): (479) 521-1316
Date of advertisement: 11.06.22
This publication was paid for by the Purchasing Division of the City of Fayetteville, Arkansas.
Amount paid: \$189.97.

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.
- 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. Proposers shall also submit a three (3) page (maximum) executive summary. The following items will not count toward the page limitations: 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.
 - a. 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. Limit proposal to twenty-five (25) pages or less, excluding one-page team resumes, references, and forms required by the City for completion.
 - i. Electronic Submittal (Required): Proposers can go to www.fayetteville-ar.gov/bids and follow the prompts to submit a proposal within the electronic bidding platform. All Proposers must register in order to be able to submit. There is no fee for registration.
 - (1) The use of Adobe PDF files is strongly recommended. Electronic copies shall not be submitted via e-mail to City employees by the Proposer and shall be submitted using the City's electronic bidding portal.
- 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 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 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 Andrea Foren, City Purchasing Manager, 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/proposals. Proposers should call the Purchasing Division at (479) 575-8256 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. LOCAL, STATE, AND FEDERAL COMPLIANCE REQUIREMENTS:

- a. The laws of the State of Arkansas apply to any purchase made under this request for proposal. Proposers shall comply with all local, 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.
- b. Pursuant to Arkansas Code Annotated §22-9-203 The City of Fayetteville encourages all *qualified* small, minority and women business enterprises to bid on and receive contracts for goods, services, and construction. Also, City of Fayetteville encourages all general contractors to subcontract portions of their contract to *qualified* small, minority and women business enterprises.

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 his 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), not 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 Proposer shall provide a Certificate of Insurance in accordance with specifications listed in this request for proposal, prior to commencement of any work. Such certificate shall list the City of Fayetteville as an additional insured. Insurance shall remain valid 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. The right to terminate this contract, which shall not be unreasonably exercised by the City, shall include, but not be limited to, instances in which a corporate acquisition and/or merger represent a conflict of interest or are contrary to any local, state, or federal laws. Action by the City awarding a proposal to a firm that has disclosed its intent to assign or subcontract in its response to the RFP, without exception shall constitute approval for purpose of this Agreement.

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 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. **PURPOSE & OVERVIEW:** The City of Fayetteville invites vendors to submit proposals for the services of a qualified and experienced collection agency. Initial contract period will be for one (1) year from date contract is finalized and may be renewed for four (4) consecutive one (1) year terms. Services to be provided by the awarded proposer will include, but shall not be limited to the following:

- a. Collection of overdue Water, Sewer, and Sanitation accounts (Utility Billing)
- b. Collection of miscellaneous municipal accounts (Accounts Receivable Billing)

Collection services are currently provided by Collection Bureau of America, CBA. Accounts are turned over on a monthly basis and the annual dollar volume can range between \$100,000 to \$300,000. Please refer to Appendix C for the 2020, 2021, and 2022 year-to-date bad debt accounts summary. This will provide information on the City of Fayetteville's account turnover volume from recent years. Please advise, account turnover for 2022 year-to-date is substantially higher than previous years due to backlogged account turnovers from years 2021 and 2021. The City suspended all collection activities on account balances from those years due to the COVID-19 pandemic.

The City of Fayetteville will provide the following information to the awarded agency for collections:

- a. Name
- b. Account Number
- c. Customer Number
- d. Service Address
- e. Last Known Mailing Address
- f. Phone Number
- g. Social Security Number or Federal Tax ID Number
- h. Driver's License or ID Number
- i. Amount Owed

2. **SPECIAL CONDITIONS:**

- a. During the duration of the contract, the City of Fayetteville reserves the right to review, audit, and/or examine any and all records obtained by the collection agency pertaining to accounts, debts, and records turned over by the City of Fayetteville. In the event of termination of the contract, any and all records pertaining to City of Fayetteville accounts, debts, and records shall become the property of the City of Fayetteville and turned over accordingly within thirty (30) calendar days after termination of the contract.
- b. The City of Fayetteville reserves the right to accept or reject any or all proposals, waive formalities in the bid process, and make a bid award deemed to be in the best interest of the City.

- c. Accounts, etc. will be turned over to the collection agency at the sole discretion of the City. Any account or debt that is subject to the City's appeal process will not be turned over for collection. Only debts with past due amounts of 90 days or older will be referred to a collection agency.
- d. The City of Fayetteville may refer water, sewer, and sanitation accounts (Utility Billing) to the agency on a regular monthly basis. District Court fines may be submitted to the agency on an as needed basis only and are not a primary scope of this RFP. Miscellaneous municipal billings (Accounts Receivable Billings) may be submitted to the agency on an as needed basis. In instances where a credit adjustment is made to debts that have already been submitted to the agency, the City shall notify the agency of the adjustment and the amount due on the debt shall be changed with no payment due to the agency for the credited adjustment amount.

3. LICENSING AND EXPERIENCE REQUIREMENTS:

- a. The State Board of Collection Agencies (SBCA) regulates collection agency activities in Arkansas. Collection agencies must be licensed if: (1) they are located in Arkansas or (2) they contact consumers in Arkansas. The SBCA works to protect creditors who give their accounts to collection agencies to be collected and consumers who are being contacted by collection agencies. It is the goal of SBCA to prevent undesirable collection activities, ensure compliance with Arkansas debt collection laws and educate Arkansas consumers of their rights when dealing with a collection agency.

Information on the SBCA can be found at: <http://www.asbca.org>.

- b. Agencies submitting proposals under this Invitation shall be bonded companies properly authorized to do business in the State of Arkansas. Agencies shall show proof of bonding certificate and licensing from the State Board of Collection Agencies within ten (10) calendar days of contract award. Bonding certificate and any required license shall be kept current throughout the term of this contract. Proof of bonding certificate and licensing shall be submitted within forty-five (45) days before each renewal period. If the agency is licensed to do business in other states, please specify the states in which the firm is licensed to do business.
- c. Collection agencies responding to this RFP shall provide the following criteria to qualify for consideration:
 - i. Description of the agency's past history in collections.
 - ii. Statement of how long the agency has been in existence.
 - iii. Submission of at least five (5) current references, including contact person's name and phone number. This list shall also include the average percentage of debts collected for each reference listed.
 - iv. Submission of rate in which the agency proposes to bid for cost of services.
 - v. Submission of rate in which the agency proposes to bid for cost of services for accounts that have been sent to the agency, but has been collected in house by the City of Fayetteville, and asked to be returned back to the City and close the account at the agency.
 - vi. Resumes of all project team members (maximum one page per resume).

4. SCOPE OF WORK AND CONDITIONS:

- a. Collection agencies making proposals should be aware that all collected debts shall be turned over to the City of Fayetteville in full and then redistributed to the contracting collection agency at the rate of the contract agreement. All payments made by customers for debts that have been turned over to the collection agency shall be paid directly to the agency. The agency shall send a separate check to each City of Fayetteville division (i.e. Utilities Financial Services and Accounting) for the total amount of all collected debts for each division within fifteen (15) days after the end of each month. The City of Fayetteville shall then redistribute the collection fee payment to the contracting collection agency at the rate of the contract agreement within forty-five (45) days of receiving the agency remittance.
- b. After an account has been turned over to the selected collection agency, the agency shall have one full year (365 calendar days from date turned over) to collect any funds at the agreed upon contract rate. In the event an account is turned over to the collection agency and one year passes with no funds collected, the account shall be turned back over to the City or the selected contractor shall take a reduced rate, flat fee, or preferably NO fee. Proposers shall address this desire in RFP response.
- c. If the City of Fayetteville collects on accounts previously turned over to the selected collection agency, the City will provide a listing of the collected accounts to the selected collection agency to be removed from collection efforts by the agency.
- d. If the City of Fayetteville receives a notice of bankruptcy filing for an account previously turned over to the selected collection agency, the City will immediately notify the collection agency which shall immediately stop all collection efforts on the account. The collection agency shall turn the account back over to the City.
- e. The selected agency shall provide to the City of Fayetteville access to login to the agency's website. The website login access shall provide the status of the City of Fayetteville's accounts along with any collection activity on the City's accounts performed by the agency. If the selected agency does not have a website, printed documentation of the collection activity done by the agency will be required when requested by the City of Fayetteville's staff.
- f. **All proposals shall conform to state laws regarding collection services from cities, including but not limited to Arkansas Code Ann. § 14-234-601 et seq. (Appendix A) and Arkansas Code Ann. § 14-229-103 (Appendix B).**
- g. Collection agencies shall comply with the Fair Debt Collection Practices Act. Any violations of the Fair Debt Collection Practices Act by the Proposer shall be disclosed with the RFP response.
- h. All utility accounts collected by the Utilities Financial Services Division as a result of the procedures set forth in Arkansas Code Code Ann. § 14-234-601 et seq. (Appendix A) and Arkansas Code Ann. § 14-229-103 (Appendix B) shall become the property of the Utilities Financial Services Division with no fees assessed by the collection agency.
- i. In the event a flat collection fee is proposed, regardless of collection balance, the City desires a tiered recovery chart for all accounts turned over to collections. Proposers shall provide tiered pricing

structure to provide a higher fee for accounts collected immediately vs. accounts that are not collected for 6 months, 9 months, etc.

- j. It is the desire of the City to contract with an entity that can demonstrate adequate knowledge and experience for collection efforts.

5. **INSURANCE:** By executing an agreement, auditor certifies that it is aware of the provision of A.C.A. §11-9-401, which requires every employer to pay or provide compensation for an employee's disability or death from injury arising out of or in the course of employment and certifies that it will comply with such provisions before commencing the performance of this proposal.

Vendor shall submit a sample Certificate of Insurance (COI) showing the current limits of liability with RFP response. The City does require professional liability insurance, workers compensation insurance, and auto insurance as applicable to company structure. Certificates of insurance stating coverage indicated within the sample COI shall be delivered to the City prior to issuance of Notice to Proceed and shall be maintained throughout the contract term.

6. **MISCELLANEOUS PROVISIONS:**

- a. Periodic progress billings may be submitted as work progresses, but not more often than monthly and not more than 75% of the estimated cost of audit services shall be paid during the yearly audit period. The remaining 25% shall be paid upon delivery of the completed audit.
- b. The auditor shall keep the City advised of pending and actual changes in financial disclosures, accounting practices, and reporting guidelines which would impact the City and its financial records and shall be available for consultation and clarification of such matters.

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.

8. **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.

The initial term of the collection services contract shall be for a period of one (1) year, starting with the date approved by the Fayetteville City Council. The contract shall be renewable by mutual consent, at a mutually agreed fee on an annual basis thereafter for four (4) additional years, for a total contract term of five (5) years. The contract may be terminated by either party by giving the other party written notice of such intent not less than sixty (60) days prior to the effective date of the termination. In the event of termination, claims for compensation owed the consultant by the City shall be limited to verifiable services rendered.

9. **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 firm. 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) 25% **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. *This will include but not be limited to:* quality of representative projects, experience and success with public/private development projects, financial capacity to complete and deliver the project.
- 3) 20% **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. This also includes but is not limited to degree to which the preliminary development concept and site design meets the RFP requirements and preferences, proposed building completion narrative and schedule, demonstrated market viability, and demonstrated public benefit.
- 4) 20% **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) 15% **Cost/Fees:** Complete costs and fees as described in this RFP, financial viability for construction and delivery of the proposal including fiscal feasibility and financial stability. A financial analysis, including a comprehensive risk assessment shall be conducted and submitted with response to ensure the proposed partnership meets the fiscal needs of the project with an acceptable level of risk.

10. ADDITIONAL DOCUMENTS AND INFORMATION: The following documents are included with this solicitation as additional information:

- a. Appendix A: ACA 14-234-601
- b. Appendix B: ACA 14-229-103
- c. Appendix C: 2020, 2021, & 2022 YTD Bad Debt Accounts Summary

1. DISCLOSURE INFORMATION

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.

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): _____

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 are accurate and true, and my organization shall comply with all State and Federal Equal Opportunity and Non-Discrimination requirements and conditions of employment.

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.

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 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. PRICING:

Pricing shall be attached as a separate form. Reference RFP for details on what all pricing shall include.

5. DEBARMENT CERTIFICATION:

As an interested party on this project, you are required to provide debarment/suspension certification indicating in 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.

Questions regarding this form should be directed to the City of Fayetteville Purchasing Division.

NAME OF COMPANY: _____

PHYSICAL ADDRESS: _____

MAILING ADDRESS: _____

PRINTED NAME: _____

PHONE: _____ FAX: _____

E-MAIL: _____

SIGNATURE: _____

TITLE: _____ DATE: _____



1 of 1 DOCUMENT

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*** Current through the Second Extraordinary Session 2016 of the 90th General Assembly ***

Title 14 Local Government
Subtitle 14. Solid Waste Disposal, Waterworks, And Sewers Generally
Chapter 234 Waterworks and Water Supply
Subchapter 6 -- Collection of Delinquent Water Bills

GO TO CODE ARCHIVE DIRECTORY FOR THIS JURISDICTION

A.C.A. § 14-234-601 (2016)

14-234-601. Definitions.

As used in this subchapter:

(1) "Water association" means any entity organized under the laws of the State of Arkansas, whether for profit or not for profit, that provides, distributes, transmits, treats, pumps, or stores raw or potable water for the benefit of members of the general public or commercial, industrial, and other users; and

(2) "Water system" means any entity that provides, distributes, transmits, treats, pumps, or stores raw or potable water, wastewater, or sewage for the benefit of members of the general public and commercial, industrial, and other users, including without limitation, the following entities that perform such activities:

- (A) Municipalities;
- (B) Counties;
- (C) Public facilities boards;
- (D) Public water authorities;
- (E) Central Arkansas Water;
- (F) Regional water distribution districts; and
- (G) Water associations.

HISTORY: Acts 2003, No. 769, § 1; 2007, No. 360, § 1.

HIERARCHY NOTES:

Tit. 14, Subtit. 14, Ch. 234 Note

Tit. 14, Subtit. 14, Ch. 234, Subch. 6 Note

RFP 22-11, Collection Services
Appendix B
City's RFP Solicitation



1 of 1 DOCUMENT

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*** Current through the Second Extraordinary Session 2016 of the 90th General Assembly ***

Title 14 Local Government
Subtitle 14. Solid Waste Disposal, Waterworks, And Sewers Generally
Chapter 229 General Provisions

GO TO CODE ARCHIVE DIRECTORY FOR THIS JURISDICTION

A.C.A. § 14-229-103 (2016)

14-229-103. Termination of water service.

(a) A municipality owning or operating a public sewer system or sewer improvement district that provides sewer service to its citizens may request a water association, a water improvement district, or a water authority that provides the water service to terminate the water service to a resident who is delinquent at least thirty (30) days in making payment to the municipality for sewer service or solid waste service.

(b) The water association, water improvement district, or water authority shall send notice to a person who is delinquent in making payments for sewer service or solid waste service of the date the water service will be terminated and shall terminate the water service upon that date unless the balance due the municipality for sewer service or solid waste service is paid.

(c) The water association, water improvement district, or water authority shall terminate the water service upon certification by the municipality that the person:

- (1) Is more than thirty (30) days delinquent in making payments for sewer service or solid waste service; and
- (2) Has been sent notice of the termination of the water service as required under subsection (b) of this section.

(d) As used in this section, "water authority" means the public body politic and governmental entity organized under the Water Authority Act, § 4-35-101 et seq.

HISTORY: Acts 1995, No. 717, § 1; 2009, No. 195, § 1.

NOTES: Amendments.

The 2009 amendment inserted "or water authority" or similar language in (a), (b), and (c); inserted "or solid waste service" in (a), (b), and (c)(1); redesignated (c) and substituted "as required under subsection (b) of this section" for "by the municipality" in (c)(2); added (d); and made related and stylistic changes.

ACCOUNTS SENT TO COLLECTION 2020			ACCOUNTS SENT TO COLLECTION 2021			ACCOUNTS SENT TO COLLECTION 2022 YTD		
DATE	COUNT	AMOUNT	DATE	COUNT	AMOUNT	DATE	COUNT	AMOUNT
3/2/2020	196	\$36,150.55	5/28/2021	214	\$27,402.27	2/18/2022	627	\$92,972.09
3/10/2020	920	\$120,383.84	6/21/2021	182	\$25,387.23	4/22/2022	1,859	\$326,047.08
			8/27/2021	681	\$80,086.70	8/30/2022	2,276	\$772,116.93
	1,116	\$156,534.39		1,077	\$132,876.20		4,762	\$1,191,136.10

RFP 22-11, Collection Services
Appendix B
City's RFP Solicitation



RFP 22-11 Addendum 1

Ray Klein Inc, dba Professional Credit

Supplier Response

Event Information

Number: RFP 22-11 Addendum 1
Title: Collection Services
Type: Request for Proposal
Issue Date: 11/6/2022
Deadline: 11/29/2022 02:00 PM (CT)
Notes: The City of Fayetteville is seeking requests for proposal from qualified and experienced firms to provide Collection Services for miscellaneous municipal accounts for one (1) year with four (4) one-year renewal options, giving a possible contract term of five (5) years. Any questions concerning this solicitation process should be directed to Amanda Beilfuss, City of Fayetteville Sr. Purchasing Agent, at abeilfuss@fayetteville-ar.gov.

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

Ray Klein Inc, dba Professional Credit Information

Address: PO Box 7548
Springfield, OR 97475
Phone: (866) 320-6527
Web Address: professionalcredit.com

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

Tyler Honce

Signature

Submitted at 11/29/2022 01:22:04 PM (CT)

tyler@professionalcredit.com

Email

Requested Attachments

RFP 22-11, Collection Services

Fayetteville, AR Proposal 2022.pdf

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

Response Attachments

Fayetteville Pricing Page (1).pdf

Pricing Page

RFP 22-11, Collection Services
Appendix C
Ray Klein Submittal



Professional Credit

Proposal for:

**RFP 22-11
Collection Services**

City of Fayetteville, AR

Presented By:

**Ray Klein Inc., DBA Professional Credit
Tax ID: 93-0586455**

Tyler Honce
Sales Executive
tyler@professionalcredit.com
360-567-4983
400 International Way
Springfield, OR 97477



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Dear City of Fayetteville,

The team at Ray Klein Inc., DBA Professional Credit ("Professional Credit") appreciates the opportunity to submit this proposal to the City of Fayetteville, AR, in response to your RFP #22-11 for Collection Services. We understand how unpaid accounts are an obstacle hindering the ability to provide valuable support to the City's community. We believe we are the right agency to fulfill the scope of work outlined in RFP #22-11 and enter into a contract with the City. Your contact for this project will be Sales Executive, Tyler Honce.

Professional Credit combines cutting-edge technology with a dedication to consumer well-being reflected by our belief that consumers truly want to resolve their financial obligations. We are committed to establishing a partnership based upon mutual trust and quality services with the following advantages:

- National collection agency, licensed to collect throughout the United States.
- We currently collect for over 950 state, county, municipal, healthcare, and business clients, utilizing our 89 years of experience in collecting for government entities.
- Strong and established relationships with similar clients such as the City of Portland Water Bureau, City of Tucson Water, Tampa Electric, and Black Hills Electric.
- Dedicated Behavioral and Data Science teams that, with the help of speech analytics technology, constantly monitor agent and consumer behaviors for opportunities to improve collection processes and consumer interactions.
- We are 99.99% complaint free—that's only one complaint in 17,000 contacts.
- Bilingual Spanish-speaking staff, Spanish language payment tutorial videos, and real-time translation services with access to 230+ languages are available.
- We emphasize rigorous regulatory and data security compliance, with multiple independent audits and certifications to prove it, including **SOC 2 Type II certification**, a gold standard in data security, and an **A+ rating with the BBB**.
- We use 20+ data vendors who have access to countless databases, which better enables us to find consumer information and resolve accounts.

It is our honor to share the details of Professional Credit's unique methodologies and value with the City. We thank all participating members of the review team for their consideration and look forward to a successful working relationship in the future.

Sincerely,



Jeff Johnson

Chief Client Officer
541-335-2207
jeff@professionalcredit.com
400 International Way
Springfield, OR 97477

Tyler Honce

Sales Executive
360-567-4983
tyler@professionalcredit.com
400 International Way
Springfield, OR 97477



Executive Summary

Professional Credit was founded in 1933. With a strong presence as one of the and most-established agencies in the US, Professional Credit has 89 years of success collecting for the government, healthcare, and utility industries. We have more than 120 employees and our corporate headquarters are in Springfield, OR. Because we are licensed to collect in every state, we do business across the United States.

We provide collection services to 950 municipal and state government agencies, utilities, and healthcare clients. Our collectors follow strict guidelines regarding the release of consumer information and collectors always follow the guidelines of the Fair Debt Collections Practices Act (FDCPA) when discussing accounts with the responsible party. Our conservative approach to compliance even has our collection processes follow the guidelines of FDCPA for those miscellaneous AR accounts that may not fall under the FDCPA.

It is our aim to transform the receivables management industry by proactively adapting to evolving consumer communication preferences and empowering our staff to effectively collaborate on ways to resolve financial obligations. With cutting-edge industry technology, we study consumer trends and deploy advanced automation and analytics to continually improve collection strategies and internal processes. By employing extensive technological resources, we are able to ensure we are delivering the maximum return for our clients.

Professional Credit offers unique technological resources by providing convenient access and full transparency to collection activities and account management through the secure Client Tools online portal. Clients can access recordings or transcripts of any consumer call right through our online portal. In addition, we provide a thorough review of our performance and collaborate with our clients to continuously improve our service.

We also make it easier for consumers through our philosophy that people want to pay their bills, but may need help and guidance. We focus on effective, compliant, and positive engagement by employing behavioral science, data science, and advanced analytics. In addition, we aim to have the most comprehensive and convenient access for consumers to manage their accounts and communicate with us through online and mobile self-service tools, texting, chat, email and our highly-trained service center. Combining our emphasis on ethics and evidenced-based practices, Professional Credit is unique in our industry, allowing us to provide better value for our clients and their consumers. Professional Credit is a private C Corporation led by our executive leadership team including CFO [Ginger Patmore](#), Chief Operating Officer [Carl Christensen](#), and Chief Client Officer [Jeff Johnson](#). This team reports to the board of directors, who are not directly involved in day-to-day operations but provide oversight to the organization.



Scope of Work & Conditions

In the following statements, you will answers to questions A-J in your Scope of Work & Conditions.

A. Professional Credit understands that the City requires a gross remittance of all collected fees to be sent from Professional Credit to the City. Professional Credit will set up two separate client accounts - one for Utilities Financial Services and one for Accounting. Payments will be sent separately to each of these departments no later than 15 days after the end of each month. A separate invoice will be sent to each of these departments for the collection fee that is owed to Professional Credit.

B. Professional Credit understands the importance of reaching out to consumers early in the collection process to get the best possible recovery on accounts. We know that the earlier we contact consumers, the more likely they are still at the same address and have the same phone number, that is why our team reaches out almost immediately, and continues to reach out to the consumer throughout the time the account is with Professional Credit. Our Collectors take the approach of requesting payment in full and then offer payment arrangements if payment in full is not an option for the consumer. Professional Credit agrees that any account that is not paid/settled in full, in a payment plan or in a legal status 365 after placement will be canceled back to the City at no additional fee.

C. Professional Credit would like to ensure that the City is referring all consumers that have been placed with Professional Credit to our collection team. In most cases, a consumer reaches out to the original creditor (in this case, the City) because of our collection efforts (the messages we leave and letters we send) and we therefore request that payments not be accepted by the City for accounts placed with Professional Credit. In the event Professional Credit has not performed collection efforts and a payment is taken by the City, Professional Credit agrees to cancel that account back to the City at no additional fee.

D. Professional Credit agrees to immediately stop collection efforts when a bankruptcy is identified. Part of our process to ensure we are not contacting consumers where accounts may be included in a bankruptcy is to perform a bankruptcy scrub on all accounts at the time of placement with us. If a bankruptcy is identified, we will notify the City and send the account back to the City. Professional Credit also performs ongoing bankruptcy scrubs on consumer accounts. If a bankruptcy is identified at any point during the collection process, all collections will cease and the account will be canceled back to the City.

E. Professional Credit puts a continued investment in technology, which includes our secure, online client tools portal. This portal provides 24/7/365 access to clients to view activity on accounts placed with Professional Credit including collection notes, payment and adjustments taken, access to recorded collection calls. Along with account viewing, numerous canned and custom reports are available and exportable via Excel.

F. Professional Credit agrees to conform to all applicable Arkansas state collection laws.

G. Professional Credit complies with all applicable laws and regulations including but not limited to the FDCPA.

Scope of Work & Conditions cont.

I. Please see our attached section C - Fee and Cost for an overview of Professional Credit's knowledge and experience. Professional Credit would like to point out that recovery is based on a number of factors, not just the age of placement.

Recovery rates are very important to both Professional Credit and the Cities we partner with. Professional Credit's goal is to achieve the highest recovery possible. Two things that can greatly impact recovery are the age of accounts at the time of placement to debt collections and the amount of consumer information that is sent. The following list displays the increased recovery percentage a City can expect when the following data elements are provided for both municipal court and miscellaneous accounts.

- Date of birth = 5-10%
- SSN = 5-10%
- Cell phone = 2-5%
- Email = 2-5%
- Driver's license = 2-5%
- Employment information = 2-5%.

The following table displays the recovery rates for clients with account types similar to the City.

Age of Account	Recovery Rate
0-90 days	4%
91-180 days	14.26%
180-365 days	15.95%
365+ days	25.7%

J. Professional Credit's experience collecting on debts can be found on the following pages under Professional Credit's Method and Manner section of this proposal.

Collections Workflow

1

NEW ACCOUNT RECEPTION AND PREPARATION

We can and will file reports with all three national credit bureaus, where permitted by law. We will pursue collections on all accounts with a combined balance of \$50 or more. We can pursue accounts with a balance of \$25 or more if we are provided an email address for the consumer. We can accept all forms of payment through our online payment portal, by phone, or by mail.

2

INITIAL COLLECTIONS ACTIVITY

Accounts are scrubbed initially to determine probability of payment. Those accounts with likelihood of payment will be validated and receive several communications via phone, mail, text, and email. Accounts with missing or incorrect contact information will be processed through our proprietary waterfall skip-tracing system.

3

ADVANCED COLLECTIONS ACTIVITY

Our trained collectors use advanced technology to find and contact consumers. We continue with additional contact attempts and skip-tracing using numerous data vendors who have access to an extensive number of databases.

The next pages provide a detailed look at each phase.

1

NEW ACCOUNT RECEPTION AND PREPARATION

In early stages of preparation, Professional will provide the City with a **dedicated, toll-free phone number** to connect consumers with live representatives.

Send Accounts in Any Convenient Format

The City saves time and effort when transferring accounts to Professional Credit because we accept all file formats. You can also use EDI (Electronic Data Interchange) to standardize accounts and send them electronically.

Many clients deliver accounts through our Client Tools website, an online account management portal for clients. The Client Tools website is encrypted and secured through:

- TLS (Transport Layer Security)
- SCP (Secure Copy)
- SFTP (Secure File Transfer Protocol)
- Encrypted email

We will accept any file format you use because we value your time.

Timely Acknowledgment That We Have Received Accounts

When the City first sends electronic and/or paper files it will have access to the Acknowledgment Report on the Client Tools website.

The Acknowledgment Report lists accounts assigned for collection alphabetically and provides:

- The City's account number
- Our agency's account number
- Service information and balance
- Age of accounts in months

Within 24 hours, you will know that experienced collectors are servicing accounts.

1

CONTINUED...

We Screen New Accounts for Bankruptcy Filings and Deceased Consumers

When your accounts load, we automatically run a “scrub check” which will:

- Check for bankruptcies on a daily basis for accounts in a legal status.
- Review the Social Security Administration’s weekly report for deceased consumers.

Through this “scrub check,” we:

- Address the legal requirements of the bankruptcy process
- Offer consumers and their families the utmost respect in a difficult time

While many government accounts are not subject to discharge, this process still gives us insight to the circumstances of the consumer so we can be respectful and effective

“They not only did a fine job increasing our returns, but also possess admirable values as an organization. They are committed to data security, to treating our patients very well, and being responsive to our needs. We have dealt with several collection agencies in the past, and I can say without hesitation that Professional Credit has been the best.”

- Oregon Medical Group

2

INITIAL COLLECTIONS ACTIVITY

We Immediately Begin the Collection Process on Accounts

We will be both thorough and speedy in recovering revenue. We begin Phase 2: Initial Collections Activity within 72 hours after accounts load. Professional Credit focuses our recovery efforts on the accounts that will produce the most recovery for clients. Using a proprietary propensity to pay scoring model, accounts are scored and segmented to align appropriate work efforts. Professional Credit has not only recovered more dollars with this method, we have also reduced the number of complaints received. Our agency's communications are designed and scripted by our Behavioral Science Team and clearly explain the account's delinquent status. Written notifications include:

- A toll-free telephone number.
- Directions to access easy to use online payment options.
- Locations where the City's consumers can pay in cash.

We use a Non-FCRA score on 100% of our accounts. It's a purchased probability to pay score applicable to all consumers and does not use credit bureau data. Additionally, to maximize the effectiveness of our initial communications, we:

- Include disclosures required under the FDCPA (Fair Debt Collection Practices Act).
- Use in-house legal specialists and external ACA International-Certified letter review attorneys to check letters for legal compliance.
- Apply four different readability scores to ensure letters are as effective as possible for a broad array of audiences.
- Send letters in Spanish for the City's Spanish-speaking consumers.
- Use input from our Behavioral Science Team to ensure that letters are persuasive, clear, and respectful.

Our large operations facility located in Springfield, OR, uses an automated outbound dialer. This dialer:

- Is TCPA (Telephone Consumer Protection Act) compliant¹.
- Queues list of accounts to be called at regular intervals.

Our Problem-Solving Collectors Are Here to Help Consumers

When consumers answer, collectors:

- Update consumers' contact information.
- Document reason for delinquency.
- Use problem-solving skills to resolve consumers' financial obligations.
- Obtain payment in full or set up payment plans.



3

ADVANCED COLLECTIONS ACTIVITY

We Escalate our Efforts and use Additional Resources if we are Unable to Make Contact in Phase 2.

If we receive no response during Phase 2: Initial Collections Activity, we move the account to Phase 3: Advanced Collections Activity.

Our ACA International-Certified collectors use extensive resources to maximize the City's recovery. Our collectors:

- Carefully review previous work on accounts.
- Use data analytics to find the best strategy for collecting accounts.
- Use advanced collections techniques to ensure the City receives the most recovered revenue as possible.

We use a Non-FCRA score on 100% of our accounts. It's a purchased probability to pay score applicable to all consumers and does not use credit bureau data. Our Data Analytics Team allow us to specialize in collecting utility and miscellaneous AR accounts by:

- Streamlining the collections process to ensure the City receives the recovered revenue sooner.
- Analyzing account attributes.
- Giving our agency an accurate assessment of our likelihood of collecting an account.
- Determining the most effective and efficient collection strategy for an account.



"Daily Huddles" are a time to review regulatory changes and discuss process improvements.

3

CONTINUED...

Our Agency Personalizes Collections Efforts to Liquidate Difficult Accounts

We will work the City's accounts until the best possible recovery rates are archived. We have advanced technology and knowledgeable staff that enable us to go above and beyond what clients expect.

We will use the following advanced collections efforts to increase the City's recovered revenue:

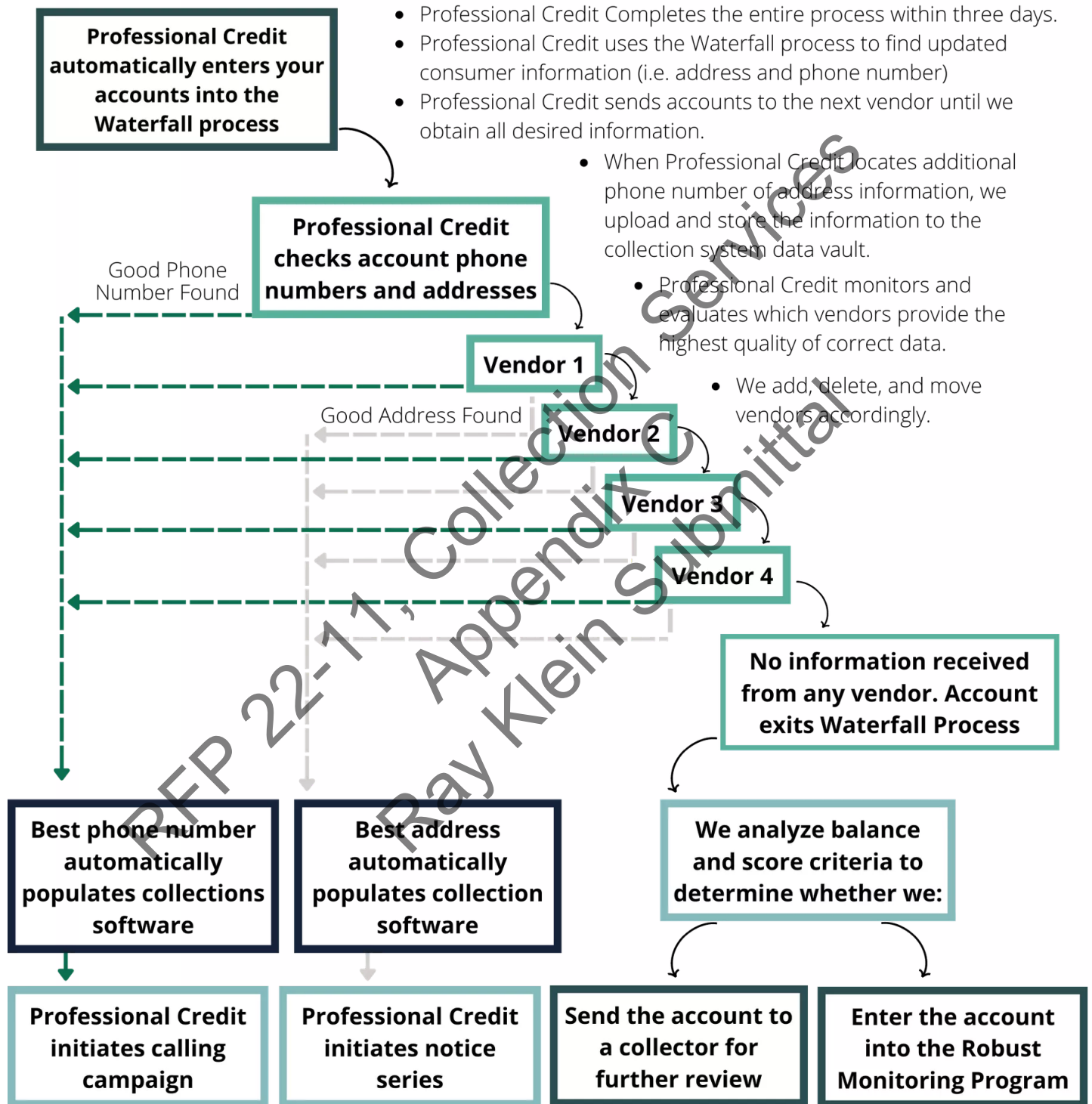
- Send additional written notifications
- Call references
- Call all listed numbers
- Search for more consumer or business information using our Waterfall skip-tracing tool (seen on next page)
- Use manual skip-tracing techniques to research accounts
- Identify assets
- Place so-called "uncollectible" accounts into our continuous monitoring program and collect when consumers experience positive financial changes
- Get credit reports (when allowed)
- Report to the Credit Bureaus when appropriate data elements are provided in the placement file.

With our Robust Monitoring Program, we can collect on accounts that other agencies typically can't.

The Robust Monitoring Program:

- Maximizes recovery on accounts that our competition would deem unworthy of their time, effort, or resources.
- Uses several vendor programs to continuously monitor accounts for positive changes in consumers' lives.
- Alerts collectors when to reactivate accounts for as long as the account is with us.

Professional Credit's Powerful Proprietary "Waterfall" System



3

CONTINUED...

Investigation Team Performs Deep Manual Skip-Tracing for Consumers' Contact Information and Assets.

Sometimes, the City's accounts need the personal touch that only a trained investigator can bring. That's why our agency is here to help. Our specialized investigators manually skip-trace accounts to find consumer contact and asset information.

To find consumer contact information, investigators:

- Review Credit Bureau Report (when applicable).
- Review state agency databases, like the DMV (where allowed) or more obscure databases, like Fish and Wildlife agencies.
- Mine social media, telephone directory, and directory assistance sites.
- Perform real estate searches and access state assessor information.
- Follow up on references.

Additionally, investigators perform weekly, monthly, and quarterly searches for:

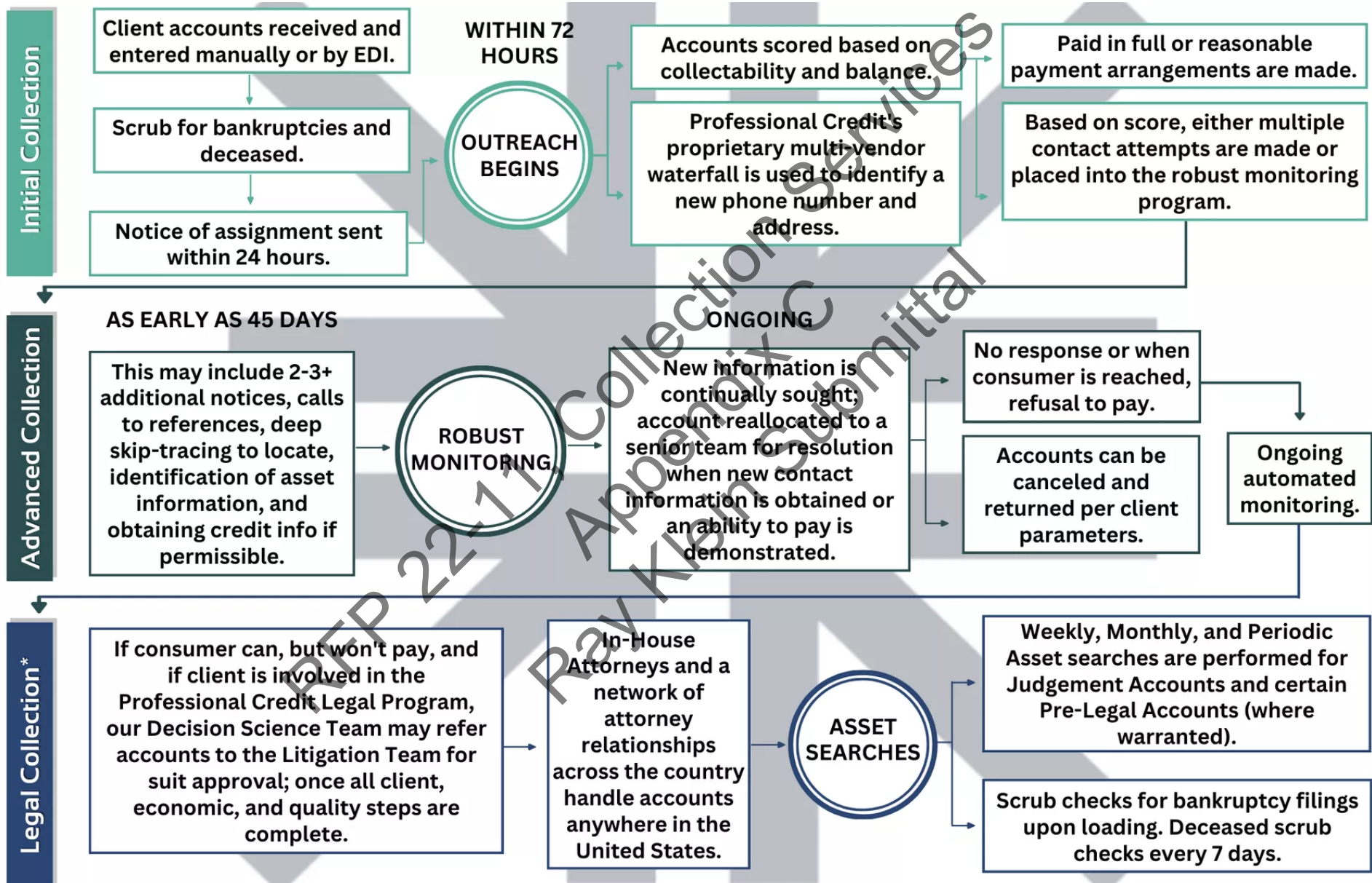
- Places of employment
- Real estate holdings
- Bank and brokerage accounts
- Automobiles
- Other assets of value

In short, our investigators will:

- Comb through vast amounts of data to find the City's consumer information.
- Contact the City's consumers.
- Help them resolve their financial obligations.



Summarized Collection Workflow



B. Description of Experience

It is our aim to transform the receivables management industry by proactively adapting to rapidly evolving consumer communication preferences and empowering our staff and consumers to effectively collaborate on ways to resolve financial obligations. With cutting-edge industry technology, we study consumer trends and deploy advanced automation and analytics to continually improve collection strategies and internal processes. By employing extensive technological resources, we are able to ensure we are delivering the maximum return for our clients.

Our internal study of payment methods showed that, when comparing digital payment methods to traditional payment methods, the first payment is made 14 days quicker with digital options and accounts are PAID IN FULL 42% quicker than with traditional payment methods.

Making it **easier for clients**, Professional Credit offers unique technological advantages by providing convenient access and full transparency to collection activities and account management through the secure Client Tools online portal. Clients can also access recordings or transcripts of any consumer call. In addition, we provide a thorough review of our performance and collaborate with our clients to continuously improve our service.

We also make it **easier for consumers** through our philosophy that people want to pay their bills, but just need help and guidance. We focus on effective, compliant, and positive engagement by employing behavioral science, data science, and advanced analytics. In addition, we aim to have the most comprehensive and convenient access for consumers to manage their accounts and communicate with us through online and mobile self-service tools, texting, chat, email and our highly-trained service center.

Combining our emphasis on ethics and evidenced-based practices, Professional Credit is unique in our industry, allowing us to provide **better value** for our clients and their consumers.

Professional Credit understands the unique nuances of collecting municipal utility and miscellaneous AR accounts. Because of the time it takes to collect on many of these accounts, our ongoing robust monitoring program, which monitors improvements in the responsible party's financial situation, our process ensures accounts get worked for the duration of the time the accounts are placed with us - not just the first six months. Professional Credit's Account Receivable Management system enables us to setup various client accounts so the City and specific courts can monitor recovery on court recovery vs restitution accounts and ensure our processes are meeting your expectations.

Speakers Bureau

Our leaders are distinguished in our field. We share our knowledge and set ourselves apart as an industry leader through our unique Speakers Bureau. This series of training, consulting, and education sessions focuses over a range of topics: A/R Management, Healthcare, Leadership, Lean Management, Motivation. We put our expertise to work to share our success with others in the industry who face many of the same challenges. As a benefit to our clients, Professional Credit offers free annual training on the topic of our client's choice.

Personnel Qualifications

Below you will find details about the experience of those who will provide service to Fayetteville, including education, role at Professional Credit, and relevant experience.

Key Personnel	Responsibilities	Education & Experience
Dave White Chief Executive Officer dwhite@professionalcredit.com 541-335-2138	- Leads Professional Credit in its mission to positively transform the collections industry	- B.S. in Business Management, Truman State University - Studied Finance & Management Information Systems - Experience in a leadership role for multiple collections organizations
Ginger Patmore, J.D., CPA Chief Financial Officer gpatmore@professionalcredit.com 360-567-4987	- Ensures prompt client and customer payment all accounting and finance - Oversees activities accounting department - Manages to be compliant with all treasury regulations	- J.D., Arizona State University - B.S. in Accountancy, Arizona State University - Over 20 years providing client services in finance and accounting
Carl Christensen Chief Operations Officer cchristensen@professionalcredit.com 541-335-2137	- Primary duty is to direct and oversee the production and revenue generating process of the Collection Floor of over 60 - Maintains our team collectors and ensures that all collectors abide by client work standards	- Studied Management, University of Minnesota and St. Johns University - Dale Carnegie Completed Management Course - Responsible for all aspects collections operations with over 15 years of experience in all facets of collection leadership - AR Management veteran - Credit ACA International Specialist certification
Jeff Johnson Chief Client Officer jeff@professionalcredit.com 541-335-2207	- Solicits constant feedback from customers and clients to bolster proper communication - Responsible for all of Professional Credit's customer service and client relationships corporate goals for and defines the sales team	- B.S. in Business Management, University of Phoenix - B.A. in Business and Human Resources Management - Brigham Young University experience in industry



Wade Isbell, J.D. General Counsel & Chief Compliance Officer wisbell@professionalcredit.com 541-335-2159	- Instructs collection staff on constantly evolving legal and regulatory issues impacting the debt collection industry to all - Investigates and responds to all consumer complaints received from State Attorney General, Better Business Bureau, and Consumer Financial Protection Bureau	- J.D., Cum Laude, Seattle University School of Law - University of B.A. in Journalism - Licensed attorney in Nevada, Washington, and Oregon - Federal Trade Former clerk Commission (FTC) Scholar - ACA International Collection Certified Credit and Compliance Officer
Tyler Honce Sales Executive tyler@professionalcredit.com	- Maintains extensive knowledge of industry trends, general economic conditions, financial practices, and Professional Credit's spectrum of products and services. - Identifies, progresses, and develops new long-term' relationships with government clients.	- BS in Healthcare Management & Policy, Oregon State University - 8 years management experience with a team of 30 - Delivered business strategy and developed systems and procedures for efficiency
Juanita Chapa VP of Legal Operations jchapa@professionalcredit.com 541-335-2268	- Maintains Professional Collections Specialist (PCS) certification - Maintains Healthcare Collection Manager (HCM) certification	- Studied Banking and Finance, Lane Community College - Over 30 years of experience in the collections industry - ACA International Collections Specialist Certification - Healthcare Collection Management Certification
Dustin Griffin Account Manager dustin@professionalcredit.com 360-567-3591	- Manages day-to-day relationships with many of Professional Credit's largest Municipal clients	- BA from University of North Carolina-Wilmington in customer service management

"Professional Credit has proven to be a great partner. Their expertise and rapid collection procedures dramatically increased our recovery rate. In some categories we saw a 400% increase in recovery from our previous national collection agency."

- City of Salem



Dave White

President & CEO

Greater Houston, TX area
541.335. 2138
dwhite@professionalcredit.com



PROFESSIONAL EXPERIENCE

As President, I am responsible for leading the organization in our pursuit of positively transforming the accounts receivable industry and execution of our strategic plan in adherence to our Core Values. I ensure the organization has a robust control environment and adheres to legal, accounting, compliance and client trust requirements.

Professional Credit

President & CEO 2022 - Present

Responsible for oversight of Accounting, Trust, IT, Compliance and Human Resource departments.

Strategic Resource Alternatives

CEO 2021 - 2022

- Completed first strategic acquisition within the first two months of employment.
- Provides direct communication to the board of directors on a quarterly basis regarding the future direction of the business.
- Responsible for M&A opportunity development along with due diligence assessments.

Performant Financial Corporation

Senior VP 2017 - 2021

- Provides direct communication to the board of directors on a quarterly basis regarding the future direction of the business.
- Responsible for significant government contracts that are coveted by all outsourcing companies to service.

Convergent Outsourcing, Inc.

Senior VP of Operations 2005 - 2017

- Responsible for 25% of company's revenue generation and 37% of company's profit margin.
- or two years straight, the only executive that qualified for the maximum growth bonus by delivering year over year EBITDA growth of greater than 25%.
- Developed unique late-stage receivable management process responsible for 22 million USD in revenue annually that resulted in the highest profit margin segment of business throughout the organization.

EDUCATION

Bachelor of Science in Business Management, 2004
Dual Focus in Finance & Management Information Systems
Truman State University

Jeffrey (Jeff) Johnson

Chief Client Officer

12204 SE Mill Plain Blvd
Vancouver, WA 98684
541.335.2207
jeff@professionalcredit.com



PROFESSIONAL EXPERIENCE

I have 20 years of experience in the collection industry, and I use my knowledge of the industry to foster quality relationships with Professional Credit's clients.

Professional Credit

Chief Client Officer 2006 – present

- Solicit constant feedback from customers and clients to bolster proper communication.
- Responsible for all of Professional Credit's customer service and client relationships.
- Set and define corporate goals for the sales team.
- Hire, train, and maintain sales team members.

Columbia Ultimate, Inc.

Senior Sales and Client Relations Manager 1997 – 2006

- Established and managed key client relationships.
- Worked collaboratively with CEOs, IT Directors, CFOs, and Legal Councils

Covey Leadership Center/Franklin Covey

Regional Sales Director/Sales Coordinator of International Division 1993 – 1997

- Designed and maintained the database used to store all of the lead information.
- Responsible for all International lead follow-up and sales responsibilities.
- Called and sold related programs specifically to countries in the Middle East.

CERTIFICATIONS & AFFILIATIONS

- Certified 7-Habits Trainer
- Healthcare Financial Management Association (HFMA) – OR, WA, AK, CO, ID Chapters
- American Association of Healthcare Administrative Management (AAHAM) – OR, WA, ID, and UT Chapters)
- Medical Group Management Association (MGMA) – Member

EDUCATION

- BS in Business Management, University of Phoenix
- BA in Business and Human Resources Management, Brigham Young University

Ginger Patmore, CPA, J.D.

Chief Financial Officer

12204 SE Mill Plain Blvd
Vancouver, WA 98684
360.567.4987
gpatmore@professionalcredit.com



PROFESSIONAL EXPERIENCE

In my role as Chief Financial Officer, I utilize my 20+ years of experience as a CPA and my formal education to ensure the organization has a robust control environment and adheres to legal, accounting, compliance and client trust requirements.

Professional Credit

Chief Financial Officer 2017 – present

Reported to CEO. Responsible for oversight of Accounting, Trust, IT, Compliance and Human Resource departments.

- Implementations of proprietary, in-house software (ARTrail), Paycom, Sage Intacct, Concur and Office 365.
- Development of internal audit procedures and process changes, leading to increased revenue opportunities and SLA improvements of 80%, while reducing staff 40%.
- Implemented exit strategy for founder/owner
- Implemented growth and exit strategies for Private Equity owners.

CORWIL Technology Corporation

Vice President of Finance 2013 – 2017

Reports directly to President. Manages Finance, Accounting and HR departments.

- Implementations of ADP Workforcenow (payroll SaaS), 401(k) conversion, Concur (expense reporting SaaS)
- Restructure of chart of accounts in ERP system to enable enhanced operational reporting and performance metrics.

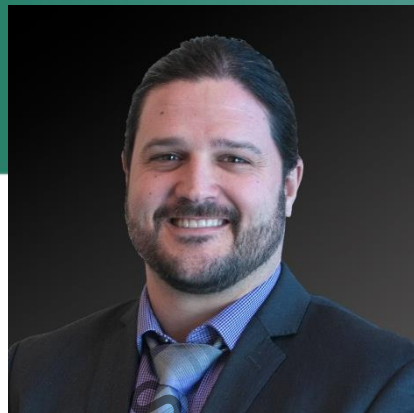
EDUCATION, LICENSURES & PROFESSIONAL AFFILIATIONS

JD, Arizona State University – 2002

- Arizona State University - Juris Doctorate in 2002
- Arizona State University - B.S in Accountancy in 1997
- Washington Board of Accountancy (CPA), Licensed August 2010 - current
- Oregon Board of Accountancy (CPA), Licensed March 2003-2012
- Oregon State Bar, Licensed April 2003-December 2012
- Arizona Board of Accountancy (CPA), Licensed October 2000-2003

Carl Christensen

Chief Operating Officer



400 International Way, Ste 100
Springfield, OR 97477
541.335.2137
cchristensen@professionalcredit.com

PROFESSIONAL EXPERIENCE

I am a passionate management professional with over 15 years of experience in the collections industry. I am skilled at managing top talent to better than expected results in the areas of performance, compliance and retention.

Professional Credit

Chief Operating Officer 2022– present

Vice President of Collections 2017-2021

- Build and maintain highly effective team of approximately 70 collectors.
- Develop leaders and inspire employees, improving retention and productivity.

JC Christensen and Associates/Array Services Group

Collection Manager 2004 – 2016

- Managed financial services and medical departments to quality performance for over a decade.
- Managed primary, secondary, and late-stage collection portfolios for Cabela's, Kohl's, Centracare Health Systems, and several other similar clients.
- Leveraged data to drive business practices.

Central Portfolio Control

Collection Specialist

- Managed collection portfolio for a number of large financial services clients.

AllianceOne

Collection Specialist

- Managed debt portfolios for USAA, GMAC, Wells Fargo, and Chase Bank.

CERTIFICATIONS & AWARDS

- Winner of the 2014 ACA International Kurt Swersky Award for leadership
- Recipient of the 2011 ACA International Warren Siem Award for Best Creative Idea

EDUCATION

- Studied Management at the University of Minnesota and St. Johns University.
- Completed the Dale Carnegie Management Course.

Ralph Hall

Vice President of Data Management

12204 SE Mill Plain Blvd
Vancouver, WA 98684
360.567.4981
rhall@professionalcredit.com



PROFESSIONAL EXPERIENCE

As the VP of Data Management, I am responsible for guiding every step of the Implementation process with regard to data interface. I also oversee each client's file transfer to and from Professional throughout the client's relationship with our company. I have over 15 years of experience working with collection software and implementing EDI transfers and services for large-scale clients. I will work closely with you to ensure that Professional Credit fully meets all your needs during the on-boarding experience.

Professional Credit

Vice President of Data Management 2017 – present

- Collaborate with healthcare systems to create a transition strategy tailored to meet their needs.
- Responsible for on-boarding new clients, including implementation and EDI file transfers.
- Oversee the data management team that is responsible for seamless file transfer between Professional and your health system.

Columbia Sportswear

Senior Business Analyst, Global IS 2016 – 2017

- Analyzed reported issues and change requests for possible causes and solutions.
- Created and executed test scripts as well as internal processes and documentation.

CarePayment

Senior Implementation Consultant 2014 – 2016

- Consulted with clients to complete file mapping and provide program training.
- Conduct business analysis to prepare for program implementation.

Columbia Ultimate

Senior Implementation Consultant 2004 – 2014

- Provided business analysis, system training, implementation support, and consulting for large-scale clients with similar needs.
- Consulted with executives, mid-level managers, supervisors, and front-line staff to identify and document business requirements.

CERTIFICATIONS

- Certified in Cadence Project Management methodology

Jane Hardin

Vice President of Client Management

12204 SE Mill Plain Blvd
Vancouver, WA 98684
360.567.4977
jane@professionalcredit.com



PROFESSIONAL EXPERIENCE

With 30+ years of experience providing unparalleled client services in the credit and finance industry, and seven working government accounts, I am uniquely qualified to be a valuable resource in addressing clients' issues and concerns.

Professional Credit

Vice President of Management 2008 – present

- Collaborate with current clients to provide excellent customer service.
- Manage client relationships and ensure Professional Credit maintains client work standards.
- Contribute to the continued success of the region's sales team in achieving sales goals and profitability for the organization.

TransUnion

Account Executive 1993 – 2007

- Maintained current key client relationships and established new ones and promoted. TransUnion's customer information services in the state of Oregon and Southwest Washington.
- Provided education and training seminars on customer credit reporting and regulatory responsibilities for both customers and clients.

Chase Manhattan (now J.P. Morgan Chase)

Service Officer – Private Banking 1988 – 1992

- Marketed Chase Private Banking services to qualified individuals.
- Serviced client financial needs including deposit accounts, bond trading, foreign investment opportunities, and specialized loan programs.

Citicorp

Service Officer – Private Banking 1985 – 1988

- Maintained deposit relationships with Private Banking clients and managed over \$500MM in bond portfolio for clients.
- Serviced and monitored custom loan portfolio of \$260MM, including monitoring collateral values.

EDUCATION

- BA in Business Administration, Ashford University – 2013

Juanita Chapa

Vice President of Legal Operations

400 International Way, Ste 100
Springfield, OR 97477
541.335.2268
jchapa@professionalcredit.com



PROFESSIONAL EXPERIENCE

I am a collections expert with nearly 30 years of experience in the credit and finance industry, and manage Professional Credit's legal collections to ensure we meet our clients' needs.

Professional Credit

Vice President of Legal Operations 2018-Present

- Oversee strategy for legal department to ensure operational efficiency.
- Drive strategic and operational initiatives for the legal department and legal collections.
- Identify and help drive implementation of legal department process improvements, legal reporting tools and/or workflows within the Legal Management System.
- Work with Small Claims and Attorney Team Managers to ensure adherence to jurisdictional compliance.
- Collaborate with cross-functional teams including Collections, Client Services, Sales/Marketing and Accounting.
- Trouble shooting and process improvement for all legal functions to include Litigation, Small Claims and Attorney Team and Special Assets.
- Monitor legal budget balance needs for OR, WA, ID, CA and AK including Small Claims, and Out of State Attorney referrals based on projections and Client and Collection priorities to maximize legal recovery for Professional and its clients.

Hawes Group

Collection Manager 2012-2018

Commercial/Special Asset Collection Manager 2009 – 2012

- Managed Supervisors and Collectors to ensure they are compliant with Professional's Mission, Vision, and Values.
- Developed, recommended, and implemented plans to increase recovery and streamline collection processes.
- Analyzed and evaluated policy, procedures, and work standards for collection floor verticals.

McKenzie Leasing and Finance, a Hawes Financial Group Company

Credit Analyst 2006 – 2009

- Analyzed credit applications for credit approvals for consumer and commercial lease applicants.

Professional Credit Service

Collection Supervisor 2004 – 2006

- Provided leadership in quality and process improvement initiatives.
- Assisted collectors in reaching department goals.

Wade Isbell, J.D.

Chief Compliance Officer & General Counsel

400 International Way
Springfield, OR 97477
541.335.2159
wisbell@professionalcredit.com



PROFESSIONAL EXPERIENCE

I am an attorney admitted to practice law in OR and NV, and I have developed our comprehensive Compliance Management System to protect our clients' images and address ever-changing regulatory requirements.

Professional Credit

Chief Compliance Officer & General Counsel (Promoted to CCO in 2013) 2011 – present

- Successfully developed and implemented Professional Credit's comprehensive Compliance Management System.
- Investigate and respond to all consumer complaints received from State Attorney General, Better Business Bureau, and Consumer Financial Protection Bureau.
- Instruct collection staff on constantly evolving legal and regulatory issues that impact the debt collection industry.

Thorp Purdy Jewett Urness & Wilkinson, P.C.

Law Clerk 2010 – 2011

- Researched and resolved complex legal issues in areas of family law, estate planning, personal injury, and corporate law.
- Assisted attorneys in trial preparation by drafting trial memorandum, preparing witnesses, and compiling cross-examination packets to be used at trial.

Federal Trade Commission

Legal Extern 2010

- Interviewed consumer victims of unfair business practices and drafted declarations to be used in support of enforcement actions.
- Researched consumer protection and antitrust issues and drafted legal memoranda for supervising attorneys.

CERTIFICATIONS

- Credit and Collection Compliance Officer, ACA International
- Scholar, ACA International

EDUCATION

- JD, Cum Laude, Seattle University School of Law – 2010
- BA in Journalism, University of Washington – 2007

References

Burbank, CA Water & Power	Juliana Demers Credit & Collections Supervisor 818-238-5500 jdemers@burbankca.gov
Glendale, CA Water & Power	Isaac Apodaca Billing & Collections Supervisor 818-551-3025 iapodaca@glendaleca.gov
Tucson, AZ City of Tucson Water	Belinda Madrid Senior Accounting Clerk 520-837-4372 belinda.madrid@tucsonaz.gov
Portland Water Bureau	Ryan Newhouse Collection & Recovery Supervisor 503-865-2251 ryan.newhouse@portlandoregon.gov
Tampa Electric	Nicole Edwards Credit & Collections Supervisor 813-225-5171 nmedwards@tecoenergy.com

"Professional Credit's staff is very reliable and accurate. We are continually pleased with their work and I have no hesitation in recommending their services."

- Clackamas County Justice Court

Our Unique Technology

The City will have a powerful technological partner in Professional Credit, having access to our full technology suite. On the following pages, you will find a detailed description of our technology-based, self service tools made to help the City reach its goals and maintain its good reputation.

Our accounts receivable management software, **ARTrail®**, streamlines engagement efforts with automated workflows and customizable safeguards to ensure adherence to the City and regulatory work standards. ARTrail® is based on contemporary web-centric technologies to exploit the opportunities of the modern software environment. Our DevOps development practices facilitate rapid evolution of our platform to meet ever-changing business and regulatory requirements while maintaining quality and reliability.

Our speech analytics solution, records, audits, and scores 100% of auditable interactions between Professional Credit agents and consumers. **Recordings of calls can be accessed by the City 24/7 through the Client Tools portal.**

Integrated, 2-way **Predictive Autodialer and Rapid Manual Dialing Solution** uses a rapid manual dialing solution to maintain TCPA compliance when calling cell phones.

Professional Credit's electronic data interchange (EDI) tool, **RoboDX™**, ensures seamless data transfer between client systems and Professional Credit's ARTrail software. Professional Credit has setup data transfers for many municipalities who utilize Tyler Technologies. RoboDX™ comes fully equipped with compliance standards and security features, facilitating an efficient, secure, and compliant exchange of information between the City and Professional Credit. It supports all delimiter files: Excel, XML, API, DB, Multi-row file formats. Its universal data exchange solution also reads and transforms any file formats both in source or destination. It also has the capability of transferring a single file as multiple files, and multiple files into a single file. In addition, RoboDX™ has a versatile four-step configuration that functions with virtually any file format, API or database.

Professional Credit's proprietary **Waterfall Skip-tracing Engine** allows for automated skip tracing as it is integrated with key data vendors to ensure that the most accurate consumer information is always available for appropriate account follow-up.

The proprietary **Robust Monitoring Tool** evaluates accounts daily and triggers them for follow-up should the consumer's financial situation change for the better.

Professional Credit's **PCS Direct Pay** gives consumers 24/7 access to their accounts, the ability to make payments, set up payment plans based on the City's guidelines, update insurance information and communicate with Professional Credit staff either through live chat or secure messaging.

Our **Omni-channel Communication** approach is enabled by the advanced workflows in ARTrail® which coordinates communications with consumers based on their preferences including email, text messages, calls, direct voicemail drops, mobile alerts, IVR, and letters.

Professional Credit's **SMS Chatbot** allows easy access to the Professional Credit online portals after hours. Consumers can send a text to a number provided in the communication they received that will engage a chatbot. The chatbot will then guide them through the identity verification and authentication process and generate a link that will allow them to login automatically and manage their account.



Overview of Onboarding Process

30 day Go-Live can be adjusted to fit client schedule

Below is Professional Credit's implementation plan, including details about our secure data transfers. Professional Credit will work closely with the City during implementation to ensure that the onboarding process is as easy as possible. The following plan can be customized or accelerated based on your availability and needs. We will set and agree on expectations during the process so that deliverables and timelines are clear. We will provide a specialized team to manage all technical and training requirements.

Typical implementation includes:

1.1. Kickoff Meeting - 30 minutes

1.2. Business Understanding Meeting #1 - (Day 2-7)- 60 minutes

Beginning with the ending in mind, we review Trust fund remittance and reporting, consumer payment processing, and review key elements of the contract and client profile settings to ensure the remainder of the process is optimized to meet your needs.

1.3. Business Understanding Meeting #2 - (Day 8 to 14) - 60 minutes

We take a deep dive into your consumer/patient engagement practices and learn how we can best interact with your consumers to optimize recovery while preserving your reputation.

1.4. EDI Meeting #1 - File Specifications and Mapping (Day 8-14) - 60 minutes

In this meeting we will discuss all options for data flowing both directions, as well as manual self-serve options in Client Tools. When an EDI file is the best solution, we will discuss file specifications and mapping, other logistics.

1.5. EDI Meeting #2 - Review Sample Files - (Day 15-30) 30 minutes

We will review your files and ensure that all needed files are present and properly mapped.

1.6. Client Training Meeting - (Day 45) 60 Minutes

In this meeting we will give you a tour of Client Tools and ensure you are aware of all the features, reports, actions and data that is just a click away, as well as discuss the expectations for responding to inquiries and timelines for resolving consumer issues.

1.7. Go Live Assistance Meeting - (Day 60) 30 Minutes

A quick check in to test your first account load, confirm your acknowledgement report was received, and spot check new accounts for accuracy.

1.8. First Trust Cycle Review- (Day 90-100) 30 minutes

After we publish and remit the first trust, we have one meeting to review all posting types, commission charged, the posting process and the invoice to ensure your questions are answered.

1.9. Quarterly Meetings (After the first 90 days)

In these meetings we review placement volume, work standards, liquidation and discuss options for optimizing recovery.



Data Security

Due to the number of government and healthcare clients Professional Credit serves, we are very familiar with the strict standards of confidentiality. We have both strong systems and training programs in place in addition to many other tools to accommodate any unique client needs in this area, all the while adhering to federal and state requirements. Confidentiality and data security are at the core of our company's approach. For over 89 years, our company has established and maintained relationships around the country reinforced by our integrity and ethics. Professional Credit understands the security of PII and financial data is the foundation not only for an ethical and successful business but also for relationships with clients and consumers built on trust and confidence.

Both the Client Tools website and our consumer portals are secured with 256-bit encryption and TLS 1.2 (Transport Layer Security). Personally identifiable information is encrypted within our database. We encrypt data both during transit and at rest. When transferring files, we support bit strengths and ciphers, depending on agency needs. The following ciphers are available by default:

- AES256-CBC
- AES128-CBC
- 3DES-CBC
- Blowfish-CBC
- CAST128-CBC
- ARCFour
- AES192-CBC

We can meet any information system requirements for clients to send and receive account information electronically. Our data transfer experts can work with participating entities' staff to develop the best format for data files to ensure seamless data transfer. Clients may deliver accounts through:

- Our Client Tools website, an online account management portal for clients. The Client Tools website is encrypted and secured through TLS (Transport Layer Security)
- SCP (Secure Copy)
- SFTP (Secure File Transfer Protocol)
- Encrypted email
- Paper files transferred through secure transmission methods

We have a long-established Information Security Council that meets on a quarterly basis to review internal and external audit results and discuss new trends, technologies, risks, training programs, and adherence to IT security protocols. This allows us to stay compliant with quickly changing protocols. Our company has the following network devices to protect our network and defend internet-accessible systems:

- Managed Switches and Routers: Allows our administrators to monitor network connections (with layer 2 and 4 capable switching), at the port level
- Next Generation Firewalls (built in redundancy) supporting: SSL VPN
- IPsec VPN
- Demilitarized Zone (DMZ): Provides a network of computers at the front lines to the Internet to identify and prevent security attacks, like hackers and viruses.



Professional Credit is a Compliance Expert

Professional's Compliance Management System Upholds All Relevant Federal, State, and Local Regulations

Professional's Compliance Management System ensures legal and regulatory compliance. Wade Isbell, J.D., Chief Compliance Officer, designed and oversees all compliance matters for the company. Wade is both an ACA International Scholar and Certified Credit and Collection Compliance Officer (CCCCO). He conducts quarterly compliance meetings that all collectors must attend.

Our strong Compliance Management System enables us to remain compliant with all federal, state, and local regulations.

Below you will find some of the education initiatives that Wade oversees that bolster our compliance record:

- New collectors receive FDCPA training and testing, 3-4 monthly FDCPA update courses
- We keep our Policies, Processes, and Work-Instructions online and always updated so collectors can easily find relevant information on appropriate work standards that are compliant FDCPA standards.
- After one year of experience, collectors attend a two-day ACA International course that provides extensive FDCPA training.
- This course prepares collectors to take the exam to earn the Professional Collector Specialist (PCS) designation from ACA International. Collectors must obtain this certification after one year of employment.
- Our Communication and Compliance Suite records and audits 100% of auditable interactions between collectors and consumers, analyzing calls for specific compliance elements. We use the powerful auditing features of the Suite to specialize collector training and address the areas individual collectors need to improve.
- Wade leads our annual all-employee ethics training. During this meeting, he refreshes all employees on our ethics program and reviews any required FDCPA, and/or security items.



Signature Submittal

1. DISCLOSURE INFORMATION

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.

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):

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 are accurate and true, and my organization shall comply with all State and Federal Equal Opportunity and Non-Discrimination requirements and conditions of employment.

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.

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 where the City selection committee can call for clarification or interview via telephone.**

Corporate Name of Firm: Ray Klein Inc., DBA Professional Credit

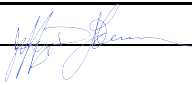
Primary Contact: Tyler Honce Title of Primary Contact: Sales Executive

Phone#1 (cell preferred): 360-567-4983 Phone#2: _____

E-Mail Address: tyler@professionalcredit.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
1	 Jeff Johnson	11/21/22

4. PRICING:

Pricing shall be attached as a separate form. Reference RFP for details on what all pricing shall include.

5. DEBARMENT CERTIFICATION:

As an interested party on this project, you are required to provide debarment/suspension certification indicating in 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.

Questions regarding this form should be directed to the City of Fayetteville Purchasing Division.

NAME OF COMPANY: Ray Klein Inc., DBA Professional Credit

PHYSICAL ADDRESS: 400 International Way, Springfield OR, 97477

MAILING ADDRESS: 400 International Way, Springfield OR, 97477

PRINTED NAME: Jeff Johnson

PHONE: 541-335-2207

FAX: _____

E-MAIL: jeff@professionalcredit.com

SIGNATURE: 

TITLE: Chief Client Officer

DATE: 11/28/22

Sample Reports & Letters

Below are samples of reports that Professional Credit will make available. They are each fully customizable, can be generated in virtually any format, and are available 24/7 through our Client Tools Portal.

CLIENT NAME XXX XXX XXXXXXXXXXXX 2010-03-01

	Paid to PCS (Us)	Paid to Client (You)
Total Paid	\$2,627.45	\$0.00
Principal Paid	\$2,627.45	\$0.00
Interest Paid	\$108.42	\$0.00
Total Other Paid	\$0.00	\$0.00
Total Commissions	\$656.85	\$0.00
Total Due You	\$1,970.60	\$0.00

Aging (Months)

UNDER 1	\$804.39
2	\$0.00
3	\$76.65
4	\$221.32
5	\$156.20
6 & Over	\$1,368.89

Total Collected	\$2,627.45
Collection Fees	\$656.85
Check # XXXXX	\$1,970.60

Last Name	First Name	Your Account	PCS Account	Payment Date	Paid	Due You	Comm	Fixed Fee	Bal	Status	For	Remark	Age	Prin Paid	Prin Comm	Prin Due You
XXXXX	XXXXX	XXXXXXXX	XXXXXXXX	02/19/10	\$58.17	\$44.63	\$14.54	\$0.00	\$0.00	PIF			58.34	\$58.17	\$14.54	\$43.63
XXXXX	XXXXX	XXXXXXXX	XXXXXXXX	02/17/10	\$76.65	\$57.49	\$19.16	\$0.00	\$0.00	PIF			79.46	\$76.65	\$19.16	\$57.49
XXXXX	XXXXX	XXXXXXXX	XXXXXXXX	02/03/10	\$1,368.89	\$1,026.67	\$342.22	\$0.00	\$0.00	PIF	COMMUN	1455.59	6	\$1,368.89	\$342.22	\$1,026.67
XXXXX	XXXXX	XXXXXXXX	XXXXXXXX	02/26/10	\$476.85	\$357.64	\$119.21	\$0.00	\$0.00	PIF			479.39	\$476.85	\$119.21	\$357.64
XXXXX	XXXXX	XXXXXXXX	XXXXXXXX	02/02/10	\$156.20	\$117.15	\$39.05	\$0.00	\$0.00	PIF			165.1	\$156.20	\$39.05	\$117.15
XXXXX	XXXXX	XXXXXXXX	XXXXXXXX	02/05/10	\$164.08	\$123.06	\$41.02	\$0.00	\$0.00	PIF	OFFICE ENT	171.03	4	\$164.08	\$41.02	\$123.06
XXXXX	XXXXX	XXXXXXXX	XXXXXXXX	02/26/10	\$57.24	\$42.93	\$14.31	\$0.00	\$0.00	PIF			57.26	\$57.24	\$14.31	\$42.93
XXXXX	XXXXX	XXXXXXXX	XXXXXXXX	02/12/10	\$201.81	\$151.36	\$50.45	\$0.00	\$0.00	PIF			202	\$201.81	\$50.45	\$151.36
XXXXX	XXXXX	XXXXXXXX	XXXXXXXX	02/19/10	\$67.56	\$50.67	\$16.89	\$0.00	\$0.00	PIF			67.76	\$67.56	\$16.89	\$50.67

This is a sample of our Trust Report. It will provide details to the City about account activity including payments made and how those payments are broken down into interest and commissions collected by Professional Credit.



Activity Report

Reporting Periods	Referred Accounts			Cancelled Accounts		Transactions		Net to Client	Agency Commission	
Reporting Periods	# Referred	\$ Referred	\$ Avg Referred	# Cancelled	\$ Cancelled	\$ Adjustments	\$ Recovered	\$ Net	\$ Comm	% Comm
Jan - 21	0.00	\$0.00	\$0.00	0.00	\$0.00	\$0.00	\$3,442.70	\$2,823.03	\$619.70	18
Feb - 21	0.00	\$0.00	\$0.00	3.00	\$992.25	\$0.00	\$5,964.00	\$4,890.47	\$1,073.50	18
Mar - 21	90.00	\$160,895.24	\$1,787.72	9.00	\$4,130.35	\$0.00	\$6,452.49	\$5,291.01	\$1,161.50	18
Apr - 21	207.00	\$69,851.86	\$337.45	2.00	\$218.54	\$0.00	\$28,065.78	\$23,013.95	\$5,051.80	18
May - 21	714.00	\$399,260.05	\$559.19	3.00	\$610.49	\$0.00	\$4,542.06	\$3,724.52	\$817.50	18
Jun - 21	680.00	\$289,874.54	\$426.29	2.00	\$2,038.48	\$0.00	\$12,486.28	\$10,238.72	\$2,247.60	18
Jul - 21	776.00	\$430,053.51	\$554.19	47.00	\$12,273.50	\$0.00	\$18,224.61	\$14,944.18	\$3,280.40	18
Aug - 21	239.00	\$163,238.99	\$683.01	313.00	\$113,363.70	(\$820.71)	\$16,436.63	\$13,478.01	\$2,958.60	18
Sep - 21	2.00	\$277.06	\$138.53	21.00	\$6,248.84	(\$602.90)	\$15,226.93	\$12,576.12	\$2,650.80	17.4
Oct - 21	91.00	\$72,952.01	\$801.67	8.00	\$34,264.20	\$67,069.00	\$13,195.89	\$10,764.60	\$2,431.30	18.4
Nov - 21	1.00	\$3,471.42	\$3,471.42	2.00	\$3,554.26	\$1.31	\$10,255.28	\$8,414.01	\$1,841.30	18
Dec - 21	91.00	\$72,952.01	\$801.67	93.00	\$73,483.85	(\$225.52)	\$7,829.07	\$6,419.83	\$1,409.20	18
2021-Total	2,891.00	\$1,662,826.69	\$575.17	503.00	\$251,178.46	\$65,421.18	\$142,121.72	\$116,578.45	\$25,543.30	18
Jan - 22	0.00	\$0.00	\$0.00	12.00	\$2,348.61	(\$107.73)	\$7,758.41	\$6,361.89	\$1,396.50	18
Feb - 22	1.00	\$1,136.64	\$1,136.64	14.00	\$2,995.71	\$0.00	\$4,460.28	\$3,657.41	\$802.90	18
Mar - 22	0.00	\$0.00	\$0.00	20.00	\$2,157.80	\$692,249.28	\$4,405.28	\$3,612.33	\$793.00	18
Apr - 22	0.00	\$0.00	\$0.00	3.00	\$762.01	\$0.00	\$3,603.51	\$2,954.87	\$648.60	18
May - 22	0.00	\$0.00	\$0.00	6.00	\$1,805.92	\$32.16	\$4,554.85	\$3,734.96	\$819.90	18
Jun - 22	0.00	\$0.00	\$0.00	8.00	\$2,637.96	\$155.34	\$3,444.22	\$2,824.28	\$619.90	18
Jul - 22	0.00	\$0.00	\$0.00	4.00	\$604.72	\$12,488.25	\$1,987.42	\$1,629.69	\$357.70	18
Aug - 22	1.00	\$155.67	\$155.67	5.00	\$1,400.04	\$14,275.95	\$6,769.52	\$5,551.01	\$1,218.50	18
Sep - 22	0.00	\$0.00	\$0.00	0.00	\$0.00	\$8,388.09	\$1,355.87	\$1,111.81	\$244.10	18
2022-Total	2.00	\$1,292.31	\$646.16	72.00	\$14,712.77	\$727,481.34	\$38,339.36	\$31,438.25	\$6,901.10	18
GrandTotal	11,102.00	\$4,332,519.03	\$390.25	1,015.00	\$416,845.13	\$795,644.99	\$752,579.90	\$617,117.32	\$135,462.60	18

This is a sample of our Activity Report. It is a financial summary, including receipts, net accounts receivables, total accounts receivable, and historical collection rates by monthly, quarterly, and on an annual basis.

Example Report - Cash Flow as of September 1st, 2022

This is a sample of our Cash Flow Report, which displays total placements, total recovery in dollars and percentages in a monthly, quarterly and annual basis

Values						Average Account Age				
Monthly CF	Number Listed	Amount Listed	Number Cancelled	Amount Cancelled			Recoverd Principal	Precollect Results	Total Recovery	Recovery %
2022										
Aug	1,423	\$ 1,117,306	6,778	\$ 1,510,903	0	\$	42,590	\$ 4,019	\$ 46,609	4%
Jul	881	\$ 779,698	291	\$ 207,226	3	\$	31,690	\$ 6,188	\$ 37,879	7%
Jun	3,684	\$ 3,582,472	1,205	\$ 943,881	3	\$	31,856	\$ 5,079	\$ 36,935	1%
May	595	\$ 277,108	185	\$ 91,126	3	\$	40,366	\$ 551	\$ 40,917	22%
Apr	33	\$ 126,511	252	\$ 89,657	0	\$	36,282	\$ (259)	\$ 36,023	98%
Mar	74	\$ 113,949	342	\$ 86,110	0	\$	64,898	\$ 259	\$ 65,157	234%
Feb	54	\$ 103,460	285	\$ 91,775	0	\$	92,366	\$ 1,000	\$ 93,366	799%
Jan	691	\$ 524,768	285	\$ 136,863	2	\$	61,594	\$ 6,617	\$ 68,210	18%
2021										
Dec	1,239	\$ 842,151	249	\$ 144,107	15	\$	108,597	\$ 11,717	\$ 120,314	17%
Nov	1,073	\$ 927,882	306	\$ 114,890	21	\$	72,857	\$ 6,989	\$ 79,846	10%
Oct	968	\$ 1,047,692	363	\$ 130,773	16	\$	62,964	\$ 4,268	\$ 67,232	7%
Sep	1,057	\$ 1,035,031	354	\$ 170,276	17	\$	65,630	\$ 4,620	\$ 70,250	8%
Aug	847	\$ 736,870	1,773	\$ 1,909,324	16	\$	75,584	\$ 3,699	\$ 79,284	11%
Jul	820	\$ 533,289	325	\$ 460,365	21	\$	67,579	\$ 5,401	\$ 72,980	100%
Jun	894	\$ 657,571	688	\$ 261,386	22	\$	113,504	\$ 4,381	\$ 117,885	30%
May	742	\$ 553,515	182	\$ 60,934	16	\$	63,478	\$ 236	\$ 63,715	13%
Apr	908	\$ 612,747	349	\$ 72,114	26	\$	84,151	\$ 2,133	\$ 86,283	16%
Mar	995	\$ 712,094	412	\$ 155,842	18	\$	93,927	\$ 1,852	\$ 95,779	17%
Feb	984	\$ 676,426	330	\$ 91,968	18	\$	128,739	\$ 10,967	\$ 139,706	24%
Jan	1,609	\$ 1,114,608	427	\$ 154,175	26	\$	150,098	\$ 17,228	\$ 167,326	17%
2020										
Dec	3,147	\$ 3,180,931	330	\$ 131,188	21	\$	73,716	\$ 6,512	\$ 80,228	3%
Nov	1,033	\$ 951,412	347	\$ 121,982	25	\$	57,718	\$ 8,040	\$ 65,758	8%
Oct	753	\$ 629,307	461	\$ 205,008	33	\$	99,270	\$ 8,174	\$ 107,444	25%
Sep	503	\$ 428,782	369	\$ 372,859	29	\$	82,088	\$ 8,864	\$ 90,952	163%
Aug	1,087	\$ 1,315,059	333	\$ 108,619	23	\$	82,165	\$ 10,478	\$ 92,643	8%
Jul	1,113	\$ 988,671	458	\$ 418,764	35	\$	92,930	\$ 6,792	\$ 99,721	17%
Jun	1,203	\$ 1,058,369	518	\$ 190,168	36	\$	167,385	\$ 11,475	\$ 178,860	21%
May	1,582	\$ 1,024,824	532	\$ 173,584	32	\$	105,324	\$ 14,177	\$ 119,501	14%
Apr	1,987	\$ 2,180,091	350	\$ 242,857	25	\$	81,217	\$ 7,993	\$ 89,210	5%
Mar	1,122	\$ 976,512	247	\$ 65,393	42	\$	67,144	\$ 8,085	\$ 75,230	8%
Feb	1,081	\$ 652,435	428	\$ 364,487	40	\$	81,963	\$ 9,874	\$ 91,837	32%
Jan	1,022	\$ 725,497	308	\$ 160,387	42	\$	57,583	\$ 5,019	\$ 62,602	11%
2019										
Dec	1,233	\$ 841,908	3,190	\$ 1,289,874	41	\$	56,652	\$ 7,593	\$ 64,245	8%
Nov	1,386	\$ 1,194,549	782	\$ 554,201	36	\$	86,712	\$ 1,762	\$ 88,474	14%
Oct	1,227	\$ 870,573	411	\$ 134,912	45	\$	111,587	\$ 8,049	\$ 119,636	16%
Sep	1,084	\$ 704,692	177	\$ 4,679	40	\$	118,115	\$ 17,769	\$ 135,884	19%
Aug	1,892	\$ 1,608,363	580	\$ 194,360	49	\$	92,122	\$ 11,544	\$ 103,666	7%
Jul	1,258	\$ 933,205	1,438	\$ 633,726	55	\$	91,830	\$ 8,036	\$ 99,866	33%
Jun	1,706	\$ 952,515	319	\$ 2,941	41	\$	124,623	\$ 28,963	\$ 153,586	16%

PIF-SIF Report For Corporate Test Client

Client Account	Last Name	First Name	Account	Referral Date	Amount Referred	Principal	Last Payment Date	Status	Status Def
45252	TEST	PCS1	10033464	2017-07-13	600	0		PIF	PAID IN FULL-hg
314159265	DAISY	TEST	10000063	2017-07-12	500	400		SIF	SETTLED IN FULL
314159265	DAISY	TEST	10000063	2017-07-12	500	400		SIF	SETTLED IN FULL
12333A	TEST	PCS1	10033465	2017-07-02	303	323		PIF	PAID IN FULL-hg
111122222	Test	Test	10182042	2018-01-17	1111.11	0		PIF	PAID IN FULL-hg

This is a sample of our PIF-SIF (Paid in Full - Settle in Full) Report, which details on a monthly basis accounts that are paid in full or settled for an amount agreed to by the City (continued on the next page).

Cancellation

SAMPLE CLIENT
1234 TEST DRIVE

Client Id : 9206

EXAMPLE, CA 92270

Date : 09/15/2022

The following accounts have been cancelled from our system

Client Account #	Client Consumer #	Consumer Name	Amount	Date of Service	Agency Account #	Reason	Cancelled Date
76484		JOHNS, JIMMY	\$ 234.99	03/13/2022	18299032	CLIENT REQ CANCELLED/DELETED	09/15/2022
97534		O'FURNITURE, PATTY	\$ 403.65	07/09/2018	12035275	CANCEL - CONSUMER DECEASED	09/15/2022
32596		YEW, OLIVE	\$ 436.15	12/24/2018	12750311	CANCEL - CONSUMER DECEASED	09/15/2022
38157		BUGG, AIDA	\$ 178.06	01/13/2019	12892324	CANCEL - CONSUMER DECEASED	09/15/2022
87113		GRATER, ALLIE	\$ 403.65	01/27/2021	16822359	CANCEL - CONSUMER DECEASED	09/15/2022
10751		KNEE, ROD	\$ 621.00	05/26/2021	17616138	CANCEL - CONSUMER DECEASED	09/15/2022
Total		6	\$ 2,277.50				

This is a sample of our Cancellation Report. It is for accounts deemed uncollectible. It displays the reason for cancellation for the client and can be run at the frequency requested by the client, though it is usually run monthly.

ACTUARY REPORT

Reporting Period	Placed		Adjustment	Collected		Returned		Active	
Reporting Period	Quantity	Amount	Amount	# PIF	To Date	Quantity	Amount	Quantity	Amount
Jan - 20	402	\$97,638.00	(\$15.00)	195	\$41,413.38	4	\$620.00	203	\$55,619.62
Feb - 20	361	\$91,185.00	\$0.00	153	\$32,115.06	2	\$380.00	206	\$58,689.94
Mar - 20	146	\$40,774.00	\$15.00	59	\$16,814.59	2	\$518.00	85	\$23,426.41
Oct - 20	838	\$171,228.90	(\$90.00)	243	\$44,446.86	7	\$1,620.00	588	\$125,252.04
Nov - 20	488	\$148,026.00	(\$105.00)	116	\$34,352.59	9	\$2,025.00	363	\$111,753.41
Dec - 20	209	\$59,810.00	(\$185.00)	50	\$12,792.05	2	\$490.00	157	\$46,712.95
2020-cumulative	2,444	\$608,661.90	(\$380.00)	816	\$181,934.53	26	\$5,653.00	1,602	\$421,454.37
Jan - 21	109	\$30,067.00	(\$135.00)	53	\$13,057.00	1	\$165.00	55	\$16,980.00
Feb - 21	128	\$38,831.00	(\$75.00)	37	\$9,475.00	2	\$620.00	89	\$28,811.00
Mar - 21	121	\$35,186.00	(\$135.00)	27	\$6,368.00	1	\$15.00	93	\$28,938.00
Apr - 21	122	\$38,534.00	(\$180.00)	23	\$6,860.00	1	\$280.00	98	\$31,574.00
May - 21	132	\$39,467.00	(\$75.00)	31	\$6,557.52	0	\$0.00	101	\$32,984.48
Jun - 21	115	\$31,564.00	(\$30.00)	30	\$6,657.35	2	\$324.00	83	\$24,612.65
Jul - 21	136	\$37,976.00	(\$75.00)	31	\$7,899.88	0	\$0.00	105	\$30,151.12
Aug - 21	175	\$56,471.00	(\$75.00)	23	\$7,706.00	1	\$130.00	151	\$48,710.00
Sep - 21	55	\$18,494.00	(\$45.00)	15	\$5,162.00	0	\$0.00	40	\$13,377.00
Nov - 21	171	\$55,541.00	(\$30.00)	29	\$9,311.60	1	\$439.00	141	\$45,820.40
Dec - 21	214	\$66,221.00	(\$30.00)	26	\$6,043.00	5	\$1,755.00	183	\$58,453.00
2021-cumulative	1,478	\$448,352.00	(\$885.00)	325	\$85,097.35	14	\$3,728.00	1,139	\$360,411.65

Jan - 22	70	\$19,801.00	\$0.00	9	\$1,498.50	0	\$0.00	61	\$18,302.50
Mar - 22	196	\$63,939.00	\$0.00	20	\$4,513.00	0	\$0.00	176	\$59,426.00
Apr - 22	253	\$76,324.00	\$0.00	10	\$2,191.00	1	\$280.00	242	\$73,853.00
May - 22	51	\$12,560.00	\$0.00	0	\$0.00	0	\$0.00	51	\$12,560.00
2022-cumulative	570	\$172,624.00	\$0.00	39	\$8,202.50	1	\$280.00	530	\$164,141.50
GrandTotal-cumulative	18,454	\$4,921,082.14	(\$208,000.00)	6,128	\$1,455,619.44	2,684	\$777,391.17	9,642	\$2,896,071.53

This is a sample of our Actuary Report, which provides a comprehensive look at the City's accounts from placement, any adjustments, dollars collected, and any accounts returned as agreed upon by the City.

RFP 22-11, Collection Services
Appendix C
Ray Klein Submittal



Professional Credit Service

December 28, 2021

One Customer
12345 Main St
Springfield, OR 97477-1234

ACCOUNT #: 11238964
PIN: 1234

Total Due: \$1,946.26

The account(s) listed in this letter has been referred for collection to Professional Credit Service.

Unless you notify this office within 30 days after receiving this notice that you dispute the validity of this debt or any portion thereof, this office will assume this debt is valid. If you notify this office in writing within 30 days after receiving this notice that you dispute the validity of this debt or any portion thereof, this office will obtain verification of the debt or obtain a copy of a judgment and mail you a copy of such judgment or verification. If you request of this office in writing within 30 days after receiving this notice this office will provide you with the name and address of the original creditor, if different from the current creditor.

**CONNECT WITH
YOUR ACCOUNT**

WEB
PCSDirectPay.com

TEXT
Text "Options" to
541-403-8980
(message and data rates may apply)

SCAN

APP
 Download on the App Store
 GET IT ON Google play
Download the App
Search for "PCSDirectPay"

Creditor	Original Acct#	Professional Acct#	Principal	Interest	Referred Interest/Fee	Total
CENTRAL MEDICAL	17812345	06712345	\$100.00	\$25.00	\$10.51	\$135.51
NORTHSIDE CLINIC	88012345	10065443	\$500.00	\$37.05	\$8.70	\$545.75
GENERAL MEDICAL HOSPITAL	11012345	11238964	\$1,000.00	\$255.00	\$10.00	\$1,265.00

Total Due: \$1,946.26

This is a sample of our Full Collection Validation Letter. This is the first letter a consumer will receive to notify them that the account has been transferred to Professional Credit for collections.

This communication is from a debt collector. This is an attempt to collect a debt and any information obtained will be used for that purpose.

NOTICE: SEE REVERSE FOR IMPORTANT INFORMATION

HAW/003 706109400939 ▲ *** PLEASE RETAIN THIS PORTION FOR YOUR RECORDS *** ▲ 3/000002/1
▼ ***PLEASE RETURN THIS PORTION OF THE NOTICE WITH YOUR PAYMENT*** ▼

Change of Address Information - Please Complete

Address: _____
City: _____ State : _____ Zip: _____
Home Phone: _____
Work Phone: _____

Phone hours (PST): Mon-Thu 5:00 am - 7:00 pm

Fri 5:00 am - 5:00 pm

Sat 9:00 am - 1:00 pm

Toll Free (800) 555-1234 Para Español (888) 927-3512

We also accept money orders and MoneyGram®.

Our nearest physical location is:
400 International Way, Ste 100
Springfield, OR 97477-7002

Account #: 11238964
One Customer
Total Due: \$1,946.26

Accounting Department
P.O. Box 7548
Springfield, OR 97475-0039

PAYMENT		AMOUNT	
	☐ VISA		☐ MasterCard
CARD NUMBER		CCV# (On Back of Card)	
SIGNATURE		EXP. DATE	

P.O. Box 7548
Springfield, OR 97475-0039



Professional Credit Service

December 28, 2021

One Customer
12345 Main St
Springfield, OR 97477-1234

ACCOUNT #: 11238964
PIN: 1234

Total Due: \$1,946.26

CONNECT WITH YOUR ACCOUNT

WEB
PCSDirectPay.com

TEXT
Text "Options" to
541-403-8980
(message and data rates may apply)



APP



Download
the App



Search for
"PCSDirectPay"

WE CAN HELP CREATE A SOLUTION

We have previously sent you notice on this account and it is still not resolved.

We understand financial challenges, and want to help you find a solution through an affordable payment plan that fits your budget. However, we can't help if you don't contact us.

We've also made several videos available at www.pcsdirectpay.com to help you understand how to establish a payment plan online, and what some of the processes are now that your account is in collections.

Creditor	Original Acct#	Professional Acct#	Principal	Interest	Referred Interest/Fee	Total
CENTRAL MEDICAL	17812345	06712345	\$100.00	\$25.00	\$10.51	\$135.51
NORTHSIDE CLINIC	88012345	10065443	\$500.00	\$37.05	\$8.70	\$545.75
GENERAL MEDICAL HOSPITAL	11012345	11238964	\$1,000.00	\$255.00	\$10.00	\$1,265.00

Total Due: \$1,946.26

This is a sample of our Second Letter. This letter serves as a follow up to the Full Collection Validation Letter, sent only if there is no response from the consumer. Every letter Professional Credit sends will include a QR codes, which allows consumers to self-serve.

This communication is from a debt collector. This is an attempt to collect a debt and any information obtained will be used for that purpose.

NOTICE: SEE REVERSE FOR IMPORTANT INFORMATION

HAW/004 706109401093 ▲ *** PLEASE RETAIN THIS PORTION FOR YOUR RECORDS *** ▲ 35/0000018/1
▼ ***PLEASE RETURN THIS PORTION OF THE NOTICE WITH YOUR PAYMENT*** ▼

Change of Address Information - Please Complete

Address: _____

City: _____ State : _____ Zip: _____

Home Phone: _____

Work Phone: _____

We also accept money orders and MoneyGram®.

Our nearest physical location is:
400 International Way, Ste 100
Springfield, OR 97477-7002

Account #: 11238964
One Customer
Total Due: \$1,946.26

Phone hours (PST): Mon-Thu 5:00 am - 7:00 pm

Fri 5:00 am - 5:00 pm

Sat 9:00 am - 1:00 pm

Toll Free (800) 555-1234 Para Español (888) 927-3512

PAYMENT		AMOUNT	
	☐ VISA		☐ MasterCard
CARD NUMBER		CCV# (On Back of Card)	
SIGNATURE		EXP. DATE	

Accounting Department

P.O. Box 7548
Springfield, OR 97475-0039

C. Fee & Cost

Primary Collections	25%
Consumer Payments made Directly to the City	25%

Professional Credit has chosen to offer the City one flat fee, regardless of when the account is collected. Because this fee is lower than what the City is currently paying on all tier levels, we think this will be a better value for the City to have a consistent, lower rate rather than a tiered pricing system. We also anticipate that this will allow a higher net return to the City.

*"I am very pleased with the services (PCS) provides us. Their web portal allows us to run reports, monitor and research individual accounts, see what activity has taken on an account. The web portal is easy to use and has online help and training."
- City of Tucson, AZ*



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

02/17/2023

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 Christensen Group 9855 West 78th Street, Ste 100 Eden Prairie MN 55344	CONTACT NAME: Angie Diethelm PHONE (A/C, No, Ext): (952) 653-1000 FAX (A/C, No): (952) 653-1100 E-MAIL ADDRESS: adiethelm@christensengroup.com																					
INSURED Professional Credit Holdings Corporation Ray Klein, Inc 400 International Way, Ste 250 Springfield OR 97477	<table><tr><th colspan="2">INSURER(S) AFFORDING COVERAGE</th><th>NAIC #</th></tr><tr><td>INSURER A:</td><td>Massachusetts Bay Ins Co</td><td>22306</td></tr><tr><td>INSURER B:</td><td>Hanover Insurance Co</td><td>22292</td></tr><tr><td>INSURER C:</td><td>Hanover American</td><td>36064</td></tr><tr><td>INSURER D:</td><td>Travelers Casualty and Surety Co of America</td><td>19038</td></tr><tr><td>INSURER E:</td><td>Evanston Insurance Co.</td><td>35378</td></tr><tr><td>INSURER F:</td><td>Arch Specialty Insurance Co.</td><td>21199</td></tr></table>	INSURER(S) AFFORDING COVERAGE		NAIC #	INSURER A:	Massachusetts Bay Ins Co	22306	INSURER B:	Hanover Insurance Co	22292	INSURER C:	Hanover American	36064	INSURER D:	Travelers Casualty and Surety Co of America	19038	INSURER E:	Evanston Insurance Co.	35378	INSURER F:	Arch Specialty Insurance Co.	21199
INSURER(S) AFFORDING COVERAGE		NAIC #																				
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INSURER F:	Arch Specialty Insurance Co.	21199																				

COVERAGES**CERTIFICATE NUMBER:** 22-23 Liability**REVISION NUMBER:**

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	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☒ POLICY ☐ PRO-JECT ☒ LOC OTHER:			ZDXH672679	06/30/2022	06/30/2023	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
A	AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ OWNED AUTOS ONLY ☒ HIRED AUTOS ONLY ☐ SCHEDULED AUTOS ☒ NON-OWNED AUTOS ONLY			ZDXH672679	06/30/2022	06/30/2023	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
B	☒ UMBRELLA LIAB ☒ EXCESS LIAB DED ☐ RETENTION \$ 0			UHXH672696	06/30/2022	06/30/2023	EACH OCCURRENCE \$ 10,000,000 AGGREGATE \$ 10,000,000
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 / A	WZXH639116	06/30/2022	06/30/2023	☒ PER STATUTE ☐ OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
D/E	D) Professional Liability E) Cyber Liability			107470356/MKLV5PCY000060	06/30/2022	06/30/2023	Professional Liab. Limit \$3,000,000 Cyber Liab. Limit \$3,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

City of Fayetteville is included as an Additional Insured under the General Liability when required by written contract.

CERTIFICATE HOLDER**CANCELLATION**City of Fayetteville
113 W. Mountain St.

Fayetteville

AR 72701

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

© 1988-2015 ACORD CORPORATION. All rights reserved.



AGENCY CUSTOMER ID: _____

LOC #: _____

ADDITIONAL REMARKS SCHEDULE

Page _____ of _____

AGENCY Christensen Group		NAMED INSURED Professional Credit Holdings Corporation
POLICY NUMBER		
CARRIER	NAIC CODE	EFFECTIVE DATE:

ADDITIONAL REMARKS**THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,****FORM NUMBER:** 25 **FORM TITLE:** Certificate of Liability Insurance: Notes

F) Excess Cyber Liability - 6/30/22-6/30/23 - Policy #C-4LPY-043447-CYBER-2022 - Limit: \$3,000,000
G) Excess Cyber Liability - 6/30/22-6/30/23 - Policy #2-CIA-WA-17E-S0112562-00 - Limit: \$4,000,000
Insurer G: Hudson Excess Insurance Company NAIC: 19038

STATE OF ARKANSAS
COLLECTION AGENCY BOND

BOND NO. 775202420 AR

KNOW ALL MEN BY THESE PRESENTS:

That we RAY KLEIN, INC., as Principal, whose address is 2892 CRESCENT AVE EUGENE, OR 97408 and TRAVELERS CASUALTY & SURETY COMPANY OF AMERICA, as Surety, are held and firmly bound unto the State of Arkansas, in the sum TWENTY-FIVE THOUSAND DOLLARS AND NO/100 (\$25,000) payable to the Arkansas State Board of Collection Agencies for the use and benefit of the State for any injured party, lawful money of the United States of America, the payment of which well and truly to be made, we and each of us, bind ourselves, our heirs, executors, administrators, successors and assigns, jointly, and severally, firmly by these presents.

THE CONDITIONS OF THE ABOVE OBLIGATIONS ARE SUCH THAT:

This bond shall provide that the person, partnership, association, or corporation giving the bond shall, upon written demand, pay and turn over to the Arkansas State Board of Collections Agencies for the person, partnership, association, or corporation from whom any account, bill, or other indebtedness is taken for collection, in accordance with the terms of the agreement upon which it was received for collection, and in accordance with the Rules and Regulations of the Arkansas State Board of Collection Agencies.

The aggregate liability of the Surety for all breaches of the conditions of the bond shall, in no event, exceed the amount of the bond. The Surety shall have a right to cancel such bond upon giving thirty (30) days notice to the Arkansas State Board of Collection Agencies, and thereafter, shall be relieved of liability for any breach of condition occurring after the effective date of the cancellation.

IN WITNESS WHEREOF, said PRINCIPAL and SURETY have executed this bond, this 03 DAY OF APRIL, 2002.

This bond is effective APRIL 01, 2002.

SURETY:

Eleanore G. Woodward
(Signature)

Title:

ELEANORE G. WOODWARD, Attorney-In-Fact

Address:

ONE TOWER SQUARE, HARTFORD, CT 06183

Countersigned by: _____

N/A

PRINCIPAL:

Joseph R Hawes
(Signature)

JOSEPH R HAWES, President
(Printed Name & Title)

(ATTACH POWER OF ATTORNEY)

(SEAL)

COUNTY OF HENNEPIN) SS:

On APR 03 2002 before me, a Notary Public within and for said County and State personally appeared ELEANORE G. WOODWARD known to me to be the Attorney-in-Fact of TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA, the corporation described in and that executed the within and foregoing instrument in behalf of said corporation and (s)he duly acknowledged to me that such corporation executed the same.



Angela Jill Luscomb

IN WITNESS WHEREOF, TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA, TRAVELERS CASUALTY AND SURETY COMPANY and FARMINGTON CASUALTY COMPANY have caused this instrument to be signed by their Senior Vice President and their corporate seals to be hereto affixed this 14th day of March 2001.

STATE OF CONNECTICUT

}SS. Hartford

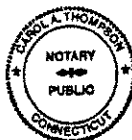
COUNTY OF HARTFORD

TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA
TRAVELERS CASUALTY AND SURETY COMPANY
FARMINGTON CASUALTY COMPANY



By 
George W. Thompson
Senior Vice President

On this 14th day of March, 2001 before me personally came GEORGE W. THOMPSON to me known, who, being by me duly sworn, did depose and say: that he/she is Senior Vice President of TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA, TRAVELERS CASUALTY AND SURETY COMPANY and FARMINGTON CASUALTY COMPANY, the corporations described in and which executed the above instrument; that he/she knows the seals of said corporations; that the seals affixed to the said instrument are such corporate seals; and that he/she executed the said instrument on behalf of the corporations by authority of his/her office under the Standing Resolutions thereof.





My commission expires December 31, 2002 Notary Public
Carol A. Thompson

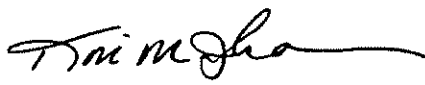
CERTIFICATE

I, the undersigned, Assistant Secretary of TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA, TRAVELERS CASUALTY AND SURETY COMPANY and FARMINGTON CASUALTY COMPANY, stock corporations of the State of Connecticut, DO HEREBY CERTIFY that the foregoing and attached Power of Attorney and Certificate of Authority remains in full force and has not been revoked; and furthermore, that the Standing Resolutions of the Boards of Directors, as set forth in the Certificate of Authority, are now in force.

Signed and Sealed at the Home Office of the Company, in the City of Hartford, State of Connecticut. Dated this _____ day of _____, 20

APR 03 2002



By 
Kori M. Johanson
Assistant Secretary, Bond

POWER OF ATTORNEY AND CERTIFICATE OF AUTHORITY OF ATTORNEY(S)-IN-FACT

KNOW ALL PERSONS BY THESE PRESENTS, THAT TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA, TRAVELERS CASUALTY AND SURETY COMPANY and FARMINGTON CASUALTY COMPANY, corporations duly organized under the laws of the State of Connecticut, and having their principal offices in the City of Hartford, County of Hartford, State of Connecticut, (hereinafter the "Companies") hath made, constituted and appointed, and do by these presents make, constitute and appoint: **Patrella L. Wolf, Eleanore G. Woodward, of Minneapolis, Minnesota,** their true and lawful Attorney(s)-in-Fact, with full power and authority hereby conferred to sign, execute and acknowledge, at any place within the United States, the following instrument(s): by his/her sole signature and act, any and all bonds, recognizances, contracts of indemnity, and other writings obligatory in the nature of a bond, recognizance, or conditional undertaking and any and all consents incident thereto and to bind the Companies, thereby as fully and to the same extent as if the same were signed by the duly authorized officers of the Companies, and all the acts of said Attorney(s)-in-Fact, pursuant to the authority herein given, are hereby ratified and confirmed.

This appointment is made under and by authority of the following Standing Resolutions of said Companies, which Resolutions are now in full force and effect:

VOTED: That the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President, any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary may appoint Attorneys-in-Fact and Agents to act for and on behalf of the company and may give such appointee such authority as his or her certificate of authority may prescribe to sign with the Company's name and seal with the Company's seal bonds, recognizances, contracts of indemnity, and other writings obligatory in the nature of a bond, recognizance, or conditional undertaking, and any of said officers or the Board of Directors at any time may remove any such appointee and revoke the power given him or her.

VOTED: That the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President may delegate all or any part of the foregoing authority to one or more officers or employees of this Company, provided that each such delegation is in writing and a copy thereof is filed in the office of the Secretary.

VOTED: That any bond, recognizance, contract of indemnity, or writing obligatory in the nature of a bond, recognizance, or conditional undertaking shall be valid and binding upon the Company when (a) signed by the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary and duly attested and sealed with the Company's seal by a Secretary or Assistant Secretary, or (b) duly executed (under seal, if required) by one or more Attorneys-in-Fact and Agents pursuant to the power prescribed in his or her certificate or their certificates of authority or by one or more Company officers pursuant to a written delegation of authority.

This Power of Attorney and Certificate of Authority is signed and sealed by facsimile (mechanical or printed) under and by authority of the following Standing Resolution voted by the Boards of Directors of TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA, TRAVELERS CASUALTY AND SURETY COMPANY and FARMINGTON CASUALTY COMPANY, which Resolution is now in full force and effect:

VOTED: That the signature of each of the following officers: President, any Executive Vice President, any Senior Vice President, any Vice President, any Assistant Vice President, any Secretary, any Assistant Secretary, and the seal of the Company may be affixed by facsimile to any power of attorney or to any certificate relating thereto appointing Resident Vice Presidents, Resident Assistant Secretaries or Attorneys-in-Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and any such power of attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding upon the Company in the future with respect to any bond or undertaking to which it is attached.

ACA International

3200 Courthouse Ln
Eagan, MN 55121-1585
(952) 928-8000

Invoice #: [INV-19407-T4K6J5](#)

Invoice Date: 5/4/2022 Invoice #: INV-19407-T4K6J5 Bill To: Professional Credit Service	Bill To Address 400 INTERNATIONAL WAY SPRINGFIELD, OR 97477 United States	Ship To Address WADE ISBELL PO BOX 7637 SPRINGFIELD, OR 97475 United States
--	---	--

Description	Date	Quantity	Price	Charges	Payments
Statutory Bond Premium	5/4/2022	1.00	\$150.00	\$150.00	
Statutory Bond Admin Fee	5/4/2022	1.00	\$13.00	\$13.00	
ACH - Sale Pending	6/1/2022	1.00	\$0.00	\$0.00	\$163.00
RENEW 775202420 AR \$25,000-EFF. 07-01-2022 TO 07-01-2023-BATCH #tceaser_20220504_1150, tceaser				Total Charges: Discount Amount: Sales Tax: Order Amount: Payment & Adjustments:	\$163.00 \$0.00 \$0.00 \$163.00 \$163.00
				Balance Due	\$0.00

ACA International

3200 Courthouse Ln
Eagan, MN 55121-1585
(952) 928-8000

Invoice #: [INV-19407-T4K6J5](#)

Invoice Date: 5/4/2022 Invoice #: INV-19407-T4K6J5 Bill To: Professional Credit Service	Bill To Address 400 INTERNATIONAL WAY SPRINGFIELD, OR 97477 United States	Ship To Address WADE ISBELL PO BOX 7637 SPRINGFIELD, OR 97475 United States
--	---	--

Description	Date	Quantity	Price	Charges	Payments
Statutory Bond Premium	5/4/2022	1.00	\$150.00	\$150.00	
Statutory Bond Admin Fee	5/4/2022	1.00	\$13.00	\$13.00	
ACH - Sale Pending	6/1/2022	1.00	\$0.00	\$0.00	\$163.00
RENEW 775202420 AR \$25,000-EFF. 07-01-2022 TO 07-01-2023-BATCH #tceaser_20220504_1150, tceaser				Total Charges: Discount Amount: Sales Tax: Order Amount: Payment & Adjustments:	\$163.00 \$0.00 \$0.00 \$163.00 \$163.00
				Balance Due	\$0.00

ASA HUTCHINSON

Governor

DARYL E. BASSETT

Secretary of Labor



State of Arkansas

ADLL - Collection Agency Licensing
Department of Labor and Licensing
900 West Capitol Avenue, Suite 400,
Little Rock, AR 72201-9709
Ph (501)-371-1434
<https://www.asbca.org>

LICENSE #:

2361

RAY KLEIN, INC.

400 INTERNATIONAL WAY
SPRINGFIELD, OR 97477

Given under our hand and seal this **1st** day of **Jul, 2022**.

A handwritten signature in cursive script, reading "Daryl E. Bassett", is written over a horizontal line.

SECRETARY OF LABOR

This license expires: **06/30/2023**

A handwritten signature in cursive script, reading "Basil L. Fisher", is written over a horizontal line.

EXECUTIVE DIRECTOR



MEETING OF MARCH 21, 2023

TO: Mayor Jordan and City Council

THRU: Susan Norton, Chief of Staff
Terry Gulley, Asst Public Works Director - Ops
Chris Brown, Public Works Director

FROM: Jared Rabren, Airport Director

DATE:

SUBJECT: **Surfco Restoration and Construction, LLC Terminal Lease Agreement**

RECOMMENDATION:

The Aviation Division requests a resolution to approve and allow the Mayor to sign a three year terminal lease agreement between the City of Fayetteville and Surfco Restoration & Construction, LLC.

BACKGROUND:

The terminal office space is at 4500 S. School Ave, Suite C, Fayetteville, AR 72701.

DISCUSSION:

Surfco has been leasing this space in the airport terminal for the past three years and would like to continue to do so. They have made several improvements to the space during their lease term.

BUDGET/STAFF IMPACT:

This lease agreement will provide \$12,000 in revenue annually to the airport.

ATTACHMENTS: Surfco Lease SRF, Surfco Restoration & Construction LLC 2023 lease-signed



City of Fayetteville, Arkansas

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

Legislation Text

File #: 2023-481

Surfco Restoration and Construction, LLC Terminal Lease Agreement

A RESOLUTION TO APPROVE A THREE YEAR LEASE AGREEMENT WITH SURFCO RESTORATION AND CONSTRUCTION, LLC FOR OFFICE SPACE IN THE AIRPORT TERMINAL BUILDING AT 4500 SOUTH SCHOOL AVENUE FOR RENT IN THE AMOUNT OF \$1,000.00 PER MONTH

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 three year lease agreement with Surfco Restoration and Construction, LLC, a copy of which is attached to this Resolution and made a part hereof, for approximately 1807 square feet of office space in the Airport Terminal Building for rent in the amount of \$1,000.00 per month.

City of Fayetteville Staff Review Form

2023-481

Item ID

3/21/2023

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

Jared Rabren

2/24/2023

AIRPORT SERVICES (760)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

The Aviation Division requests a resolution to approve and allow the Mayor to sign a three year terminal lease agreement between the City of Fayetteville and Surfco Restoration & Construction, LLC.

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:

LEASE AGREEMENT

This **LEASE AGREEMENT** made this _____ day of _____, 2023, by and between the City of Fayetteville, Arkansas, hereinafter called "City", and **Surfco Restoration and Construction, LLC**, 4500 S School Ave Suite.C Fayetteville, AR 72701, hereinafter called "**Surfco**."

WHEREAS, City is the owner of an airport known as the Fayetteville Airport, Drake Field, herein referred to as the "Airport"; and

WHEREAS, City is the owner of office space at the Airport; and

WHEREAS, **Surfco** desires to lease said office space,

NOW, THEREFORE, the parties, in consideration of the mutual covenants contained herein, hereby agree as follows:

1. City leases **Surfco**, and **Surfco** leases from City, approximately 1807 sq. ft. of office space in the Terminal Building located at 4500 S. School Ave, Fayetteville, Arkansas.
2. **Surfco** is granted the use, in common with others similarly authorized, of the airport, together with all facilities, equipment, improvements, and services which have been, or may hereafter, be provided at, or in connection with the Airport from time to time including, but not limited to, the landing field, and any extensions hereof or additions thereto, roadways, runways, ramps, aprons, taxiways, flood lights, landing lights, beacons, control tower, signals, radio aids, and all other conveniences for flying, landings and take-offs.
3. **Surfco** shall have at all times the full and free right in ingress to and egress from the demised premises and facilities referred to herein for **Surfco**, its employees, customers, passengers, guests, and other invitees. Such rights shall also extend to persons or organizations supplying materials or furnishing services to **Surfco**

4. Term: Subject to earlier termination as hereinafter provided, the initial term of this agreement shall be for THREE (3) year(s) commencing on the _____ day of March, 2023, and ending on the _____ day of February, 2026.

This Lease Agreement may be terminated by either party with a sixty (30) day written notice.

5. Rent: **Surfco** agrees to pay the City for the use of the premises, facilities, rights, and privileges granted hereunder the sum of: ONE THOUSAND DOLLARS PER MONTH, (\$1000.00) per month.

The initial lease payment is due and payable upon execution of this Lease Agreement, and all subsequent monthly lease payments shall be payable in advance on, or before, the 1st day of each month. In addition to any remedy available to it hereunder, the City may impose as additional rentals a delinquency charge on all overdue payments, at the maximum rate allowed by law.

6. City shall maintain and keep in good repair so much of the Airport premises as are not under the exclusive control of Surfco. Surfco shall, at the termination, surrender or forfeiture of this lease, return said premises in same or better condition premises were at the beginning of the lease, normal wear and tear excepted.

7. Surfco shall provide for and supply at its expense all janitor service with respect to the demised premises, and shall pay for all utilities serving the demised premises, including, but not limited to heat, light, gas, electricity, and water, sewer and trash removal.

8. Improvements: Surfco shall bear the cost of all improvements or additions made to the interior or exterior of the building on the leased premises. No improvements or additions to any part of the leased premises shall be made by Surfco without the prior written approval of the Airport Manager, whose consent will not be unreasonably withheld. Any signs or antennas to be erected on or attached to the leased premises must have the prior written approval of the Airport Manager and conform to all City Ordinances.

9. Maintenance: The City shall be responsible only for major maintenance of the existing equipment, i.e. replacement of heating unit and other equipment in place in the facility which includes, roof, exterior walls, exterior plumbing, paved ramp and paved parking lot. The City agrees that if the roof or any part of the exterior walls or exterior plumbing of said building thereof shall become defective or damaged at any time during the term due to ordinary wear and tear and not due to negligence of Surfco, or Surfco's agents or invites, upon notice from Surfco, the City will immediately cause repairs to be made and restore the defective portions to good condition. If the damage is so extensive as to render such building untenable, the rent payable hereunder shall be proportionally paid up to the time of such damage and shall thenceforth cease until such time as the premises shall be fully restored.

10. Surfco agrees to observe and obey City's Ordinances and Regulations with respect to use of the demised premises and Airport; provided, however, such Ordinances and Regulations shall be consistent with safety and with all city, county, and state rules, regulations, including all current fire codes, and orders of the Federal Aviation Administration with respect to aircraft operations at the Airport, and provided further, such Ordinances and Regulations shall be consistent with the provisions of this agreement or the procedures prescribed or approved from time to time by the Federal Aviation Administration with respect to the operation of Surfco's aircraft at the Airport.

"The Minimum Standards for Fayetteville Executive Airport, Drake Field" herein referred to as Airport Minimum Standards are made part of this lease by reference as if included word for word.

11. Hazardous Substance: **Surfco** shall not cause or permit any Hazardous Substance to be used or stored on or in the Leased Premises without first obtaining the City's written consent. If hazardous Substances are used, stored, generated, or disposed of on or in the Leased Premises or if the Leased Premises or any other Airport property becomes contaminated in any manner for which **Surfco** is responsible or legally liable, **Surfco** shall indemnify and hold harmless the City, its officers, directors, agents, servants, and employees from any and all claims, damages, fines, judgments, penalties, costs, liabilities, or losses including all reasonable costs for investigation and defense thereof, (including but not limited to attorney's fees, court costs, and expert fees, and without limitation, decrease in value of the Lease Premises, damages caused by loss or restriction of rentable or usable space as a part of the Leased Premises arising during or after the term hereof and arising as a result of that contamination by **Surfco**, **Surfco** agents, employees, and invitees. This indemnification includes, without limitation, all cost incurred because of any investigation of the Airport or any cleanup, removal, or restoration mandated by a federal, state, local agency or political subdivision.

12. **Surfco** shall maintain in force during the Term and any extended term public liability and property damage insurance in comprehensive form as reasonably may be required by the City and specified in the Airport Minimum Standards. The insurance shall be issued by an insurer licensed to do business in the State of Arkansas.

Concurrent with the execution of this Agreement, **Surfco** shall provide proof of insurance coverage by providing a Certificate of Lessee's Insurance coverage, a copy of the declarations page on the insurance policy, and a copy of all endorsements. The Certificates of Insurance, or endorsements attached thereto, shall provide that; (a) insurance coverage shall not be canceled, changed in coverage, or reduced in limits without at least thirty (30) days prior written notice to the City; (b) the City and the Airport and their trustees, agents, officers, servants, and employees are named as additional insured; (c) the policy shall be considered primary as regards to any other insurance coverage the City may possess, including any self-insured retention or deductible the City may have, and any other insurance coverage the City may possess shall be considered excess insurance only; (d) the limits of liability required therein are on an occurrence basis.

13. **Surfco** agrees to indemnify City against any and all liabilities, losses, suits, claims, judgments, fines, penalties, demands or expenses, including all reasonable costs for investigation and defense thereof, (including but not limited to attorney's fees, court costs, and expert fees, for injuries to persons or damage to property caused by **Surfco** use or occupancy of the lease premises; provided, however, that **Surfco** shall not be liable for any injury, damage or loss arising from the negligence of City or its agents or employees; and provided further, that each party shall give prompt and timely notice of any claim made or suit instituted which in any way directly or indirectly affects or might affect either party, and each party shall have the right to compromise and defend the same to the extent of its own interest. This clause shall not be construed to waive that tort immunity as set forth under Arkansas Law.

14. **Surfco** agrees that it will not discriminate by segregation or otherwise against any person or persons because of race, creed, color, religion, national origin, sex, marital status, or handicap in the furnishing, or by refusing to furnish, to such persons the use of any facility, including any and

all services, privileges, accommodations, and activities provided thereby. Nothing herein shall require the furnishing to the general public of the use of any facility customarily furnished by the City solely to tenants, their employees, customers, patients, client, guests, and invites.

15. Assigning, Subletting and Encumbering. Surfco shall not assign this Agreement in whole or in part, nor sublease all or any part of the Leased Premises, nor permit other persons to occupy said Leased Premises or any part thereof, not grant any license or concession for all or any part of said Leased Premises, without the prior written consent of the Airport Manager, which consent shall not be unreasonably withheld. Any consent by the Airport to an assignment or subletting of this Agreement shall not constitute a waiver of the necessity of obtaining that consent as to any subsequent assignment. Any assignment for the benefit of Surfco's creditors or otherwise by operation of law shall not be effective to transfer or assign Surfco's interest under this Agreement unless the Airport shall have first consented thereto in writing. Neither Surfco's interest in this Agreement, not any estate created hereby in Surfco nor any interest herein or therein, shall pass to any trustee or receiver or assignee for the benefit of creditors or otherwise by operation of law except as may specifically be provided in the Bankruptcy Code. If any of the corporate shares of stock of Surfco are transferred, or if any partnership interests of Surfco are transferred, by sale, assignment, bequest, inheritance, operation of law, or otherwise, so as to result in a change of the control, assets, value, ownership, or structure of Surfco, same shall be deemed an assignment for the purposes of this Section 17 and shall require the Airport's prior consent, and Surfco shall notify the Airport of any such change or proposed change.

16. On the expiration or other termination of this lease Surfco's right to use the demised premises shall cease, and Surfco shall vacate the premises without unreasonable delay. All property installed, erected, or placed by Surfco in, on, or about the premises leased Surfco shall have the right at any time during the term of this agreement, or any renewal or extension hereof, and for an additional period of fourteen (14) days after the expiration or other termination of this agreement, to remove any or all of such property, subject, however, to Surfco's obligation to repair all damage, if any, resulting from such removal. Any and all property not removed by Surfco prior to the expiration of the aforesaid fourteen (14) day period shall thereupon become a part of the land on which it is located and title hereto shall thereupon vest in City.

17. City may enter the premises leased to Surfco at any reasonable time for any purpose necessary or incidental to the performance of its obligations or Surfco's obligations hereunder.

18. Surfco shall maintain the demised premises in a clean and orderly fashion at all times.

19. Surfco, agrees that habitation of the hangar building or offices as a residence is prohibited.

20. Any notice or consent required by this Agreement shall be sufficient if sent by Certified Mail, return receipt requested, postage paid, to the following address:

**CITY OF FAYETTEVILLE
DRAKE FIELD**

Airport Administration Office
4500 S. School Avenue, Suite F
Fayetteville, Arkansas 72701
Phone: (479) 718 -7642

**Surfco Restoration & Construction
LLC**

Brock Emanuel
4500 School Ave Ste. C
Fayetteville, Arkansas 72701
Phone: (479) 287- 6213

24. This agreement shall be construed under the laws of the State of Arkansas.

25. All the covenants, conditions, and provisions under this agreement shall extend to and bind the legal representative, successors, and assigns of the respective parties hereof.

IN WITNESS WHEREOF, the parties have executed this Lease on the day and year first above written.

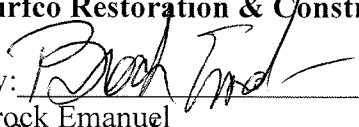
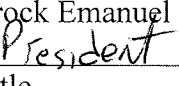
CITY OF FAYETTEVILLE, ARKANSAS

By: _____
Lioneld Jordan, Mayor

ATTEST

By: _____
Kara Paxton, City Clerk Treasurer

Surfco Restoration & Construction, LLC

By:  _____
Brock Emanuel

Title



MEETING OF MARCH 21, 2023

TO: Mayor Jordan and City Council

THRU: Chris Brown, Public Works Director

FROM: Alan Pugh, Staff Engineer

DATE:

SUBJECT: **Approval of a contract amendment #3 with Hawkins Weir Engineers, Inc. in the amount of \$80,660 for a total contract amount not to exceed \$455,160 for additional engineering design services and construction phase services associated with flooding near the intersection of N College Ave and E Sunbridge Dr. and approval of a budget adjustment**

RECOMMENDATION:

Staff recommends approval of a contract amendment #3 with Hawkins Weir Engineers, Inc. in the amount of \$80,660 for a total contract amount not to exceed \$455,160 for additional engineering design services and construction phase services associated with flooding near the intersection of N College Ave and E Sunbridge Dr. and approval of a budget adjustment.

BACKGROUND:

Hawkins Weir was selected originally for this project by RFQ 19-01 selection #15 with the original contract being approved through resolution 211-19. That contract included conceptual drainage work to determine the impacts of proposed detention basins and the original proposed routing. Subsequently, the contract was amended through resolution 124-20 to include an investigation of alternative storm drain routing. Based on the conceptual layouts and investigation, the most feasible routing option was determined and plans began to be developed.

DISCUSSION:

This project has been identified as one of the projects to be funded by the 2019 Drainage Bond Program. Hawkins-Weir Engineers, Inc has provided a proposed scope and an additional fee/reimbursables in the amount of \$80,660 to complete additional design services as well as construction phase services to include as-builts, change orders, field revision review and some observation services. The contract will be paid based on hourly rates for work completed, up to the total contract amount (currently \$455,160 including this amendment). The current total estimated project amount is \$5.5 million for construction and asegment acquisition is currently underway.

BUDGET/STAFF IMPACT:

The design for this project will be paid for with the funds from the 2019 Drainage Bond Project.

ATTACHMENTS: SRF Hawkins Weir Amend 3, 2023-497 BA Hawkins Weir Amend 3, Sunbridge & College-Amendment No. 3

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 #: 2023-497

Approval of a contract amendment #3 with Hawkins Weir Engineers, Inc. in the amount of \$80,660 for a total contract amount not to exceed \$455,160 for additional engineering design services and construction phase services associated with flooding near the intersection of N College Ave and E Sunbridge Dr. and approval of a budget adjustment

A RESOLUTION TO APPROVE AMENDMENT NO. 3 TO THE PROFESSIONAL ENGINEERING SERVICES AGREEMENT WITH HAWKINS-WEIR ENGINEERS, INC. IN THE AMOUNT OF \$80,660.00 FOR ADDITIONAL SERVICES ASSOCIATED WITH THE PROJECT TO ALLEVIATE FLOODING NEAR THE NORTH COLLEGE AVENUE AND EAST SUNBRIDGE DRIVE INTERSECTION, AND TO APPROVE A BUDGET ADJUSTMENT– 2019 DRAINAGE BOND PROJECT

WHEREAS, on September 17, 2019, the City Council passed Resolution 211-19 to authorize Mayor Jordan to sign a Professional Engineering Services Agreement with Hawkins-Weir Engineers, Inc. for conceptual drainage design services to alleviate the flooding at the intersection of North College Avenue and East Sunbridge Drive; and

WHEREAS, Amendment No. 3 provides for additional design services as well as construction phase services.

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 Amendment No. 3 to the Professional Engineering Services Agreement with Hawkins-Weir Engineers, Inc. in an amount of \$80,660.00 for engineering design services and construction phase services associated with the project to alleviate flooding near the intersection of North College Avenue and East Sunbridge Avenue.

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

2023-497

Item ID

3/21/2023

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

Chris Brown

2/28/2023

ENGINEERING (621)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Approval of a contract amendment #3 with Hawkins Weir Engineers, Inc. in the amount of \$80,660 for a total contract amount not to exceed \$455,160 for additional engineering design services and construction phase services associated with flooding near the intersection of N College Ave and E Sunbridge Dr. and approval of a budget adjustment

Budget Impact:

4704.860.7415-5860.02

4704-Drainage Projects (2022 Bonds)

Account Number

Fund

46040.7415.1000

Drainage Projects (Bonds) - Sunbridge/College

Project Number

Project Title

Budgeted Item? Yes

Total Amended Budget

\$ 9,443,214.00

Expenses (Actual+Encum)

\$ 2,166,055.41

Available Budget

\$ 7,277,158.59

Does item have a direct cost? Yes

Item Cost

\$ 80,660.00

Is a Budget Adjustment attached? Yes

Budget Adjustment

\$ -

Remaining Budget

\$ 7,196,498.59

Purchase Order Number: 2019-661

Previous Ordinance or Resolution # ^{V20221130} **211-19; 124-20, 278-20**

Change Order Number:

Approval Date:

Original Contract Number: 2019-36

Comments:

Budget Year	Division	Adjustment Number
2023	ENGINEERING (621)	
	Requestor: Chris Brown	

Approval of a contract amendment #3 with Hawkins Weir Engineers, Inc. in the amount of \$80,660 for a total contract amount not to exceed \$455,160 for additional engineering design services and construction phase services associated with flooding near the intersection of N College Ave and E Sunbridge Dr. and approval of a budget adjustment

	COUNCIL DATE:	3/14/2023
	ITEM ID#:	2023-497
	Holly Black	
	3/2/2023 8:57 AM	
	Budget Division	Date
	TYPE:	D - (City Council)
	JOURNAL #:	
	GLDATE:	
	CHKD/POSTED:	/
RESOLUTION/ORDINANCE		

[illegible]

AMENDMENT NO. 3
TO THE
AGREEMENT For PROFESSIONAL ENGINEERING SERVICES
BETWEEN
CITY OF FAYETTEVILLE, ARKANSAS
AND
HAWKINS-WEIR ENGINEERS, INC.

In accordance with the AGREEMENT For PROFESSIONAL ENGINEERING SERVICES for the **Sunbridge/College, Phase 1 Drainage Project (HW Project No. 2019070)**, dated September 17, 2019, between the City of Fayetteville, Arkansas (hereinafter called **Owner**) and Hawkins-Weir Engineers, Inc. (hereinafter called **Engineer**), Owner hereby authorizes Engineer to proceed with engineering services as modified by this Amendment No. 3.

SECTION 1 – SCOPE OF SERVICES

1.1 The City of Fayetteville Engineering Department has directed the Engineer to amend services included in the AGREEMENT on the PROJECT. These amended services include the additional surveying and engineering design services necessary to complete the final design of the project (Task 4); and Construction Phase Services (Task 5). Detailed services included in AMENDMENT NO. 3 are included in the attached Appendix A, Scope of Services.

SECTION 2 – TIME OF SERVICE

2.1 The additional scope of services defined as Task 4 above will be completed within 210 calendar days added to the 525 calendar days provided in the AGREEMENT and previous AMENDMENT NOS. 1 AND 2. The additional scope of services defined as Task 5 above will be completed within a 390-calendar day construction Contract Time in 2023 and 2024. Engineer will proceed with providing the services set forth herein immediately upon execution of this AMENDMENT NO. 3.

SECTION 3 – COMPENSATION

3.1 Owner shall compensate Engineer for providing the services set forth herein in accordance with the terms of the Agreement. Total payment for Scope of Services described herein shall not exceed Eighty Thousand, Six Hundred Sixty and 00/100 Dollars (\$80,660.00) without written approval of Owner. These additional services adjust the Agreement's not to exceed fee to \$430,860.00 and the not to exceed reimbursable expenses to \$24,300.00, for a total contract amount of **\$455,160.00**.

Attachments: Appendix A, Scope of Services dated February 2023
Appendix B, Fee Proposal Breakdown dated February 2023

AUTHORIZATION BY:

CITY OF FAYETTEVILLE, ARKANSAS

By: _____
Honorable Lioneld Jordan, Mayor

Date: _____

ACCEPTED BY:

HAWKINS-WEIR ENGINEERS, INC.

By: J. Kyle Salyer
J. Kyle Salyer, P.E., P.S.
Vice President

Date: 2/28/2023



Appendix B
Amendment No. 3 Fee Proposal
Sunbridge Drive and College Avenue
Drainage Improvements
City of Fayetteville, Arkansas
HWEI Project No. 2019070
February 2023



Task 4 - Additional Design Services

	Engr VII	Engr IV	Tech IV	Tech I	Insp II	Surveyor	GPS Survey
1. Revised public sanitary sewer relocation plans across 64 E Granada Street	4	12	16				
2. Revised public water relocation plans across 267 E Granada Street		4	8				
3. Realign drainage channel across 2709 N Drake street	4	24	24				
4. Evaluate private development plans as requested at 2709 N Drake Street	2						
5. Prepare additional land descriptions and exhibits for permanent and temporary construction easements	2	4		8		16	
6. Assist the Owner with Easement Acquisition by staking properties	2	4				8	16
7. Assist the Owner in NWP permitting with USACE	2	16	4	8			
TOTAL HOURS =	16	64	52	16	0	24	16
Task Subtotal							\$24,900

Task 5 - Construction Phase Services

	Engr VII	Engr IV	Tech IV	Tech I	Insp II	Surveyor	GPS Survey
1. Conduct Pre-Construction Conference with the Owner and Contractor	2	2		4	4		
2. Conduct a field survey to establish control monumentation	2	2				8	12
3. Prepare, review, and coordinate the dissemination of construction documentation including material submittals, field orders, and change orders as directed by the Owner	8	32		16			
4. Provide a weekly project site visit during construction of the improvements ⁽¹⁾	18	52					
5. Assists the Owner with preparation of Monthly Pay Requests	12	16		24	12		
6. Coordinate and conduct a final inspection with the Owner and Contractor, and prepare a punch list of deficient construction items for the Contractor to address	8	8			8		
7. Conduct as-built surveys of completed water and sanitary sewer improvements	2	8	24		8	4	16
8. Conduct as-built surveys of completed drainage improvements	2	8	24		8	4	24
9. Prepare record Drawings of the completed project and provide one (1) reproducible hard copy and one (1) electronic copy for the Owner's archives	2	8	16				
TOTAL HOURS =	56	136	64	44	40	16	52
Task Subtotal							\$55,760

(1) Based on 390-calendar day Contract Time (360-calendar days until substantial completion, and 30-calendar days until final completion thereafter).
Site visit is based on 1-hour per week through the substantial completion date for Eng. IV.

Engineering Services Summary

Task 4 Additional Design Services	\$24,900
Task 5 Construction Phase Services	\$55,760
Total Amendment No. 3 Fee - Not to Exceed	\$80,660



MEETING OF MARCH 21, 2023

TO: Mayor Jordan and City Council

THRU: Susan Norton, Chief of Staff
Chris Brown, Public Works Director
Terry Gulley, Asst Public Works Director - Ops

FROM: Byron Humphry, Parks Maintenance Superintendent

DATE:

SUBJECT: **Contract with TBD for Construction Manager at Risk (CMAR) Services for the Lake Fayetteville Softball Improvement project.**

RECOMMENDATION:

Staff recommends approval of a contract with Crossland Heavy Contractors, Inc., in reference to RFQ 23-02, to provide CMAR services related to the Lake Fayetteville Softball Improvement project for a not to exceed fee of \$38,950.00.

BACKGROUND:

On October 4, 2022, City Council approved Resolution 224-22 to enter a contract with Crafton Tull & Associates, Inc. to provide professional architectural and engineering service associated with the design of the Lake Fayetteville Softball Improvement project. Crafton Tull is currently working through the preliminary design of the softball complex renovations. In late March, Crafton Tull will begin the process of refining the plan into the final design. At this point it becomes critical for project success to have construction management services available to evaluate design, suggest localized construction methods and materials and provide costs to various design elements.

DISCUSSION:

On January 22, 2023, the City of Fayetteville advertised RFQ 23-02 and accepted requests for qualifications from construction management companies to provide CMAR services for the Lake Fayetteville Softball Improvement project. On February 23, 2023 a selection committee made up of City staff and elected officials reviewed submittals from four construction management professionals that responded to the request for qualifications and short listed the applicants to two companies. On March 9, 2023, the selection committee interviewed the two companies. The committee selected and negotiated a contract with **TBD** to complete this task. The scope of work for the CMAR will be split into two phases:

The contract for consideration at this time is Phase 1 only and will consist of preconstruction services. This will include working closely with Crafton Tull to provide timely cost estimating for construction methods and practices and material selections. This estimate will be used to establish the construction budget.

Phase 2 will commence upon the completion of the final design of the Lake Fayetteville Softball Improvement project. The City will negotiate the final construction cost which will be reflected in the Guaranteed Maximum

Mailing address:

113 W. Mountain Street
Fayetteville, AR 72701

www.fayetteville-ar.gov

Price (GMP). The GMP proposal will include all cost associated with the construction of the Lake Fayetteville Softball Improvement project.

BUDGET/STAFF IMPACT:

The maximum not-to-exceed amount authorized for Phase 1 for preconstruction services for this agreement is \$38,950.00.

Phase 2 of this project is contingent upon City Council approval of the GMP change order proposal.

ATTACHMENTS: SRF - CMAR Lake Fayetteville Softball, RFQ 23-02 CONTRACT , Updated SRF - CMAR Lake Fayetteville Softball, Updated SRM CMAR Lake Fayetteville Softball Improvements, Updated RFQ 23-02 Combined Final Contract - Signed

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 #: 2023-507

Contract with TBD for Construction Manager at Risk (CMAR) Services for the Lake Fayetteville Softball Improvement project.

A RESOLUTION TO AUTHORIZE A CONSTRUCTION MANAGER AT RISK SERVICES CONTRACT WITH CROSSLAND HEAVY CONTRACTORS, INC., IN AN AMOUNT NOT TO EXCEED \$38,950.00, PURSUANT TO RFQ 23-02, FOR THE LAKE FAYETTEVILLE SOFTBALL IMPROVEMENT PROJECT

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 Construction Manager at Risk Services Contract with Crossland Heavy Contractors, Inc., in an amount not to exceed \$38,950.00, pursuant to RFQ 23-02, for the Lake Fayetteville Softball Improvement Project.

City of Fayetteville Staff Review Form

2023-507

Item ID

3/21/2023

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

Byron Humphry

3/2/2023

PARKS & RECREATION (520)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Staff recommends approval of a contract with TBD, in reference to RFQ 23-02, to provide CMAR services related to the Lake Fayetteville Softball Improvement project for a not to exceed fee of \$XX,XXX.00.

Budget Impact:

4705.860.7505-5315.00

Parks Project 2022 Bonds

Account Number

Fund

46050.7505.1000

Lake Fayetteville Improvements, Softball Fields

Project Number

Project Title

Budgeted Item? Yes

Total Amended Budget

\$ 13,436,379.00

Expenses (Actual+Encum)

\$ 2,437,552.04

Available Budget

\$ 10,998,826.96

Does item have a direct cost? Yes

Item Cost

\$ -

Is a Budget Adjustment attached? No

Budget Adjustment

\$ -

Remaining Budget

\$ 10,998,826.96

V20221130

Purchase Order Number:

Previous Ordinance or Resolution # 224-22

Change Order Number:

Approval Date:

Original Contract Number:

Comments:



CITY OF
FAYETTEVILLE
ARKANSAS

**CONTRACT FOR PROFESSIONAL SERVICES
CONSTRUCTION MANAGER AT RISK**

RFQ 23-02, CMAR – Lake Fayetteville Ballfield Renovations

between

City of Fayetteville, Arkansas

and

TBD

THIS AGREEMENT is made this _____ day of _____, 2023, by and between **City of Fayetteville**, Arkansas, acting by and through its Mayor (hereinafter called CITY OF FAYETTEVILLE or CITY) and **TBD** (construction manager at risk, hereinafter called CMAR, Construction Manager, or **TBD** OR VENDOR), and CITY OF FAYETTEVILLE from time to time requires professional CMAR services in connection with the evaluation, design, and/or construction supervision of capital improvement projects. Therefore, CITY OF FAYETTEVILLE and CMAR in consideration of their mutual covenants agree as follows:

CMAR shall serve as CITY OF FAYETTEVILLE's professional CMAR consultant in those assignments to which this Agreement applies and shall give consultation and advice to CITY OF FAYETTEVILLE during the performance of services defined in the scope of work. All services shall be performed under the direction of a CMAR registered in the State of Arkansas and licensed by the Arkansas Contractor's Licensing Board.

1. Contracted parties and relationship:

- a. This agreement shall be binding between all parties. Fees for CMAR services shall be provided as identified in appendices.
 - i. **TBD's** Tax identification number (TIN) ending in #####
 - ii. **TBD's** Arkansas Contractor License No. #####
 - iii. **TBD's** Secretary of State Filing No. #####
- b. Parties agree to act on the basis of mutual trust, good faith, and fair dealing, and perform in a fiscally responsible and timely manner. Parties shall each endeavor to promote harmony and cooperation among all Project participants.

2. Entire Agreement and Exhibits: This Agreement sets forth the entire agreement and understanding between the parties on the subject matter of this Agreement. Neither party shall be bound by any conditions, definitions, representations or warranties with respect to the subject matter of this Agreement other than those as expressly provided herein.

- a. Appendices included under this agreement include the following:

RFQ 23-02, CMAR - Lake Fayetteville Ballfield Renovations

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- i. **Appendix A:** Scope of Services
 - ii. **Appendix B:** CMAR Fee Schedule
 - iii. **Appendix C:** RFQ 23-02, Construction Manager at Risk for Lake Fayetteville Ballfield Renovations
 - iv. **Appendix D:** TBD's Response to RFQ 23-02
 - v. **Appendix E:** TBD's current Certificate of Insurance
- b. This agreement may be modified only by a duly executed written instrument signed by the CITY and CMAR.
- c. **ORDER OF PRECEDENCE:** In case of any inconsistency, conflict, or ambiguity among the Contract Documents, the documents shall govern in the following order: (a) Change Orders, affidavits, and written amendments to this Agreement which are executed by all parties; (b) the Agreement; (c) CMAR's response to RFQ 23-02 (d) City's published RFQ 23-02 and associated Addenda and attachments.
- 3. Notices:** Any notice required under this Agreement shall be in writing, address to the appropriate party at the following addresses:
- a. City of Fayetteville: Attention: Mayor Lioneld Jordan, 113 W. Mountain, Fayetteville, AR 72701
 - b. **TBD:** Attention: Name of Contact, Full Address of Selected Firm
- 4. General Provisions:**
- i. **ETHICS:** All parties shall perform with integrity. Each shall avoid conflicts of interest and promptly disclose to any other part any conflicts that may arise. All parties warrant that it has not and shall not pay or receive any contingent fees or gratuities to or from any other party, including agents, officer's employers, Subcontractors, Subsubcontractors, Suppliers, Volunteers, Elected Officials, or Others to secure preferential treatment.
 - ii. When the Construction Documents, Guaranteed Maximum Price (GMP), and other descriptive documents defining the work are complete, they shall be identified and included in this Agreement by mutually agreed upon amendment to this Agreement.
 - iii. **Workmanship:** The Work shall be executed in accordance with the Contract Documents in a workmanlike manner. All materials used in the Work shall be furnished in sufficient quantities to facilitate the proper and expeditious execution of the Work and shall be new except as otherwise provided in the Contract Documents.
 - iv. **MATERIALS FURNISHED BY OWNER OR OTHERS:** If the Work includes installation of materials or equipment furnished by City or Others, it shall be the responsibility of Construction Manager to examine the items so provided and thereupon handle, store, and install the items, unless otherwise provided in the Contract Documents, with such skill and care as to provide a satisfactory and proper installation. Loss or damage due to acts or omissions of Construction Manager shall be the responsibility of Construction Manager and may be deducted from any amounts due or to become due Construction Manager. Any defects discovered in such materials or equipment shall be reported at once to the City and the City's contracted third-party Design Professional. Following receipt of written notice from Construction Manager of defects, City and Design Professional shall promptly inform Construction Manager what action, if any, Construction Manager shall take with regard to the defects.

- v. WORKSITE VISIT: Construction Manager acknowledges that it has visited, or has had the opportunity to visit, the Worksite to visually inspect the general and local conditions which could affect the Work.
- vi. Construction Manager shall perform cutting, fitting, and patching necessary to coordinate the various parts of the Work and to prepare its Work for the work of City or Others.
 - 1. Cutting, patching, or altering the work of City or Others shall be done with the prior written approval of City and Design Professional. Such approval shall not be unreasonably withheld.
- vii. COMPLIANCE WITH LAWS: Construction Manager shall comply with all the Law at its own cost. Construction Manager shall be liable to City for all loss, cost, or expense attributable to any acts or omissions by Construction Manager, its employees, subcontractors, suppliers, and agents for failure to comply with Laws, including fines, penalties, or corrective measures.
 - 1. CHANGES IN THE LAW: The GMP, estimated Cost of the Work, Construction Manager's Fee, Date of Substantial Completion or Date of Final Completion, and, if appropriate, the Compensation for Preconstruction Services shall be equitably adjusted for additional costs or time needed resulting from Laws enacted after the date of this Agreement, including taxes.
- viii. COST OF CORRECTING DAMAGED OR DESTROYED WORK: With regard to damage or loss attributable to the acts or omissions of City or Others and not to Construction Manager, City may either (a) promptly remedy the damage or loss and assume affected warranty responsibilities, (b) accept the damage or loss, or (c) issue a Change Order to remedy the damage or loss. If Construction Manager incurs costs or is delayed due to such loss or damage, Construction Manager may seek an equitable adjustment in the GMP, estimated Cost of the Work, Construction Manager's Fee, Date of Substantial Completion or Date of Final Completion, and, if appropriate, the Compensation for Preconstruction Services under this Agreement. Any equitable adjustment shall be approved by all parties.
- ix. Taxes and Permits: Construction Manager shall give public authorities all notices required by law and shall obtain and pay for all necessary permits, licenses, and renewals pertaining to the Work. Construction Manager shall provide to City copies of all notices, permits, licenses, and renewals required under this Agreement.
 - 1. Construction Manager shall pay applicable taxes and permit fees associated with the entire project.
- x. DISCOUNTS: All discounts for prompt payment shall accrue to City. All trade discounts, rebates, and refunds, and all returns from sale of surplus materials and equipment, shall be credited to the Cost of the Work, or directly to the City after final payment.
- xi. City may occupy or use completed or partially completed portions of the Work when (a) the portion of the Work is designated in a Certificate of Substantial Completion, (b) appropriate insurer(s) consent to the occupancy or use, and (c) public authorities authorize the occupancy or use. Construction Manager shall not unreasonably withhold consent to partial occupancy or use.
- xii. JOINT DRAFTING: All Parties expressly agree that this Agreement was jointly drafted, and that both had opportunity to negotiate its terms and to obtain the assistance of counsel in reviewing its terms before execution. Therefore, this Agreement shall be construed neither against nor in favor of either Party but shall be construed in a neutral manner.

- xiii. **EXTENT OF AGREEMENT:** Except as expressly provided, this Agreement is for the exclusive benefit of all Parties, and not the benefit of any third party. This Agreement represents the entire and integrated agreement between the Parties, and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement and each and every provision is for the exclusive benefit of all Parties and not for the benefit of any third party.
- xiv. **ASSIGNMENT:** Except as to the assignment of proceeds, no Party shall assign their interest in this Agreement without the written consent of the other Party. The terms and conditions of this Agreement shall be binding upon all Parties, their partners, successors, assigns, and legal representatives. No Party shall assign the Agreement without written consent of the other.
- xv. Where figures are given, they shall be preferred to scaled dimensions.
- xvi. The drawings and specifications are complementary. If Work is shown only on one but not on the other, Construction Manager shall perform the Work as though fully described on both. CMAR shall seek clarification from Design Professional for any discrepancies.
- xvii. In case of conflicts between the drawings and specifications, the specifications shall govern. In any case of omissions or errors in figures, drawings, or specifications, Construction Manager shall immediately submit the matter to City and Design Professional for clarification. Design Professional's clarifications are final and binding.
- xviii. **DEBARMENT AND SUSPENSION:** By execution of this agreement, CMAR certifies that to the best of its knowledge and belief that the CMAR and its principals:
 - 1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
 - 2. Have not within a three year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - 3. Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (2) of this certification; and
 - 4. (d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.
 - 5. CMAR understands that a false statement on certification regarding debarment and suspension may be grounds for rejection of this proposal or termination of the award. In addition, under 18 USC Sec. 1001, a false statement may result in a fine. I further certify that I will obtain a similar certification for each subcontract awarded in excess of \$25,000.
 - 6. Certifications for subcontracts executed under this agreement shall include all language in this section.

5. Definitions:

- a. Unless otherwise specifically defined in this Agreement, any terms that have well-known technical or trade meanings shall be interpreted in accordance with their well-known meanings.
- b. "Business Day" means all Days, except weekends and official federal or state holidays where the Project is located.
- c. A "Change Order" is a written order signed by all Parties after execution of this Agreement, indicating changes in the scope of the Work, the GMP and Date of Substantial Completion or Date of Final Completion.
- d. "Contract Time" is the period between the Date of Notice to Proceed and the total time authorized to achieve Final Completion.
- e. "Cost of the Work" means the total costs and discounts charged to the City.
- f. The "Construction Manager at Risk" (CMAR or CM) is the person or entity identified in this contract and includes Construction Manager's Representative.
- g. "Day" means a calendar day unless otherwise specified.
- h. "Defective Work" is any portion of the Work that does not conform with the requirements of the Contract Documents.
- i. "Design Professional" means the licensed architect retained by the City and its subconsultants, to perform design services for the Project.
- j. "Final Completion" occurs on the date when CMAR's obligations under this Agreement are complete and accepted by City and final payment becomes due and payable. This date shall be confirmed by a Certificate of Final Completion signed by all Parties.
- k. "Hazardous Material" is any substance or material identified now or in the future as hazardous under the Law, or any other substance or material that may be considered hazardous or otherwise subject to statutory or regulatory requirement governing handling, disposal, or cleanup.
- l. "Interim Directive" is a written order containing change to the Work directed by and in consultation with City and Design Professional after execution of this Agreement and before Substantial Completion. Interim Directives shall be consolidated and formalized in a change order to be signed by all parties.
- m. "Law" means federal, state, or local laws, ordinances, codes, rules, and regulations applicable to the Work with which Construction Manager must comply that are enacted as of the Agreement date.
- n. "Others" means City's other: (a) contractors/constructors, (b) suppliers, (c) subcontractors, sub-subcontractors, or suppliers of (a) and (b); and others employed directly or indirectly by (a), (b), or (c) or any by any of them or for whose acts any of them may be liable.
- o. "Overhead" means (a) payroll costs, burden, and other compensation of CMAR's employees in CMAR's principal and branch offices for work associated with this project.
- p. "Owner" is the City of Fayetteville, Arkansas (City).
- q. The "Owner's Program" is an initial description of Owner's objectives, including budgetary and time criteria, space requirements and relationships, flexibility and expandability requirements, special equipment and systems, site requirements, and any requirements for phased occupancy.
- r. The "Parties" are collectively City and CMAR.

- s. The "Project," is the building, facility, or other improvements for which CMAR is to perform Work under this Agreement. It may also include construction by Owner or Others.
- t. The "Schedule of the Work" is the document prepared by CMAR that specifies the dates on which CMAR plans to begin and complete various parts of the Work, including dates on which information and approvals are required from City.
- u. "Subcontractor" is a person or entity retained by CMAR as an independent contractor to provide the labor, materials, equipment, or services necessary to complete a specific portion of the Work. The term Subcontractor does not include Design Professional or Others.
- v. "Substantial Completion" of the Work, or of a designated portion, occurs on the date when the Work is sufficiently complete in accordance with the Contract Documents so that City may occupy or utilize the Work, or a designated portion, for the use for which it is intended, without unapproved disruption. This date shall be confirmed by a certificate of Substantial Completion signed by all Parties.
- w. A "Sub-subcontractor" is a person or entity who has an agreement with a Subcontractor or another sub-subcontractor or Supplier to perform a portion of the Subcontractor's Work or supply material or equipment.
- x. A "Supplier" is a person or entity retained by CMAR to provide material or equipment for the Work.
- y. "Terrorism" means a violent act, or an act that is dangerous to human life, property, or infrastructure, that is committed by an individual or individuals and that appears to be part of an effort to coerce a civilian population or to influence the policy or affect the conduct of any government by coercion. Terrorism includes, but is not limited to, any act certified by the United States government as an act of terrorism pursuant to the Terrorism Risk Insurance Act, as amended.
- z. "Work" means the construction and administrative and management services necessary or incidental to fulfill Construction Manager's obligations for the Project in accordance with and reasonably inferable from the Contract Documents. The Work may refer to the whole Project or only a part of the Project if work is also being performed by Owner or Others.
- aa. "Worksite" means the area of the Project where the Work is to be performed.
- bb. "Bi-monthly basis" means every fourteen to sixteen calendar days.

6. Contract Document Review and Administration

- a. Before commencing the Work, Construction Manager shall examine and compare the drawings and specifications with information furnished by the City and Design Professional that are considered Contract Documents, relevant field measurements made by Construction Manager, and any visible conditions at the Worksite affecting the Work.
- b. Should Construction Manager discover any errors, omissions, or inconsistencies in the Contract Documents, Construction Manager shall promptly report them to the City and Design Professional. Following receipt of written notice from Construction Manager of defects, City shall promptly inform Construction Manager what action, if any, Construction Manager shall take with regard to the defect.
- c. Nothing in this section shall relieve CMAR of responsibility for its own errors, inconsistencies, or omissions.
- d. COST REPORTING: Construction Manager shall maintain complete, accurate, and current records that comply with generally accepted accounting principles and calculate the proper financial management under this Agreement. Construction Manager shall maintain a complete set of all books and records

prepared or used by Construction Manager with respect to the Project. City shall be afforded access to all of Construction Manager's records, books, correspondence, instructions, drawings, receipts, vouchers, memoranda, and similar data relating to this Agreement. Construction Manager shall preserve all such records for a period of three years after the final payment or longer where required by Law.

7. Warranty

- a. Construction Manager warrants all materials and equipment furnished under the Construction Phase of this Agreement will be new unless otherwise specified, of good quality, in conformance with the Contract Documents, and free from defective workmanship and materials. At City or Design Professional request, Construction Manager shall furnish satisfactory evidence of the quality and type of materials and equipment furnished. Construction Manager further warrants all Work shall be free from material defects not intrinsic in the design or materials required in the Contract Documents. Construction Manager's warranty does **not include** remedies for defects or damages caused by normal wear and tear during normal usage beyond the warranty period, use for a purpose for which the Project was not intended, improper or insufficient maintenance, modifications performed by the City or others, or abuse. Construction Manager's warranty shall commence on the Date of Final Completion of the Project.
- b. To the extent products, equipment, systems, or materials incorporated in the Work are specified and purchased by the City, they shall be covered exclusively by the warranty of the manufacturer. There are no warranties which extend beyond the description on the face of any such warranty. For such incorporated items, ALL OTHER WARRANTIES EXPRESSED OR IMPLIED INCLUDING THE WARRANTY OF MERCHANTABILITY AND THE WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE ARE EXPRESSLY DISCLAIMED.
- c. Construction Manager shall obtain from its Subcontractors and Suppliers any special or extended warranties required by the Contract Documents. Construction Manager's liability for such warranties shall be limited to the one-year correction period, as further defined in this Agreement. After that period Construction Manager shall provide full and comprehensive assistance to the City in enforcing the obligations of Subcontractors or Suppliers for such extended warranties.
- d. Correction of Work within Two Years
 - i. If before Substantial Completion or within two-years after the date of Final Completion of the Work any Defective Work is found, City shall promptly notify Construction Manager in writing. Unless City provides written acceptance of the condition, Construction Manager shall promptly correct the Defective Work at its own cost and time and bear the expense of additional services required for correction of any Defective Work for which it is responsible. If within the two-year correction period City discovers and does not promptly notify Construction Manager or give Construction Manager an opportunity to test or correct Defective Work as reasonably requested by Construction Manager, City waives Construction Manager's obligation to correct that Defective Work as well as City's right to claim a breach of the warranty with respect to that Defective Work.
 - ii. If Construction Manager fails to correct Defective Work within a reasonable time after receipt of written notice from City before final payment, City may correct it in accordance with Owner's right to carry out the Work. In such case, an appropriate Change Order shall be issued deducting the cost of correcting the Defective Work from payments then or thereafter due Construction Manager. If payments then or thereafter due Construction Manager are not sufficient to cover such amounts, Construction Manager shall pay the difference to City.

- iii. Construction Manager's obligations and liability, if any, with respect to any Defective Work discovered after the two-year correction period shall be determined by the Law. If, after the two-year correction period but before the applicable limitation period has expired, City discovers any Work which City considers Defective Work, City shall, unless the Defective Work requires emergency correction, promptly notify Construction Manager and allow Construction Manager an opportunity to correct the Work if Construction Manager elects to do so. If Construction Manager elects to correct the Work, it shall provide written notice of such intent within fourteen (14) Days of its receipt of notice from City and shall complete the correction of Work within a mutually agreed timeframe. If Construction Manager does not elect to correct the Work, City may have the Work corrected by itself or Others, and, if City intends to seek recovery of those costs from Construction Manager, City shall promptly provide Construction Manager with an accounting of the actual correction costs.
- iv. If Construction Manager's correction or removal of Defective Work causes damage to or destroys other completed or partially completed work or existing building, Construction Manager shall be responsible for the cost of correcting the destroyed or damaged property.
- v. The two-year period for correction of Defective Work does not constitute a limitation period with respect to the enforcement of Construction Manager's other obligations under the Contract Documents.
- vi. Before final payment, at City option and with Construction Manager's agreement, City may elect to accept Defective Work rather than require its removal and correction. In such cases the GMP shall be equitably adjusted for any diminution in the value, as determined by City, of the Project caused by such Defective Work.

8. Safety of Persons and Property

- a. SAFETY PROGRAMS: Construction Manager holds overall responsibility for safety programs. However, such obligation does not relieve Subcontractors of their safety responsibilities and to comply with the Law. Construction Manager shall prevent against injury, loss, or damage to persons or property by taking reasonable steps to protect: (a) its employees and other persons at the Worksite; (b) materials and equipment stored at onsite or offsite locations for use in performing the Work; and (c) property located at the Worksite and adjacent to work areas, whether or not the property is part of the Worksite.
- b. CONSTRUCTION MANAGER'S SAFETY REPRESENTATIVE: Construction Manager shall designate an individual at the Worksite in its employ as its safety representative. Unless otherwise identified by Construction Manager in writing to City, Construction Manager's project superintendent shall serve as its safety representative. Construction Manager shall report promptly in writing all recordable accidents and injuries occurring at the Worksite. When Construction Manager is required to file an accident report with a public authority, Construction Manager shall furnish a copy of the report to City.
- c. Construction Manager shall provide City with copies of all notices required of Construction Manager by the Law. Construction Manager's safety program shall comply with the requirements of governmental and quasi-governmental authorities having jurisdiction.
 - i. Damage or loss not insured under property insurance that may arise from the Work, to the extent caused by negligent or intentionally wrongful acts or omissions of Construction Manager, or anyone for whose acts Construction Manager may be liable, shall be promptly remedied by Construction Manager.
- d. If City deems any part of the Work or Worksite unsafe, City, without assuming responsibility for Construction Manager's safety program, may require Construction Manager to stop performance of the

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Work, take corrective measures satisfactory to City. If Construction Manager does not adopt corrective measures, City may perform them and deduct their cost from the GMP. Construction Manager agrees to make no claim for damages, or an increase in the GMP, or for a change in the Dates of Substantial or Final Completion based on Construction Manager's compliance with City's reasonable request.

9. Subcontracts:

- a. BINDING OF SUBCONTRACTORS AND SUPPLIERS: Construction Manager agrees to bind every Subcontractor and Supplier and require every Subcontractor to so bind its subcontractors and significant supplier, to the Contract Documents as they apply to the Subcontractor's or Supplier's applicable provisions to that portion of the Work.
- b. Construction Manager agrees not to subcontract construction manager at risk related services without prior written consent from the City.

10. Fees, Expenses, and Payments:

- a. The maximum not-to-exceed amount authorized for this agreement is included in the breakdown shown below. Fees shall be paid to the CMAR as described in Appendix B.
- b. **Phase 1: Pre-Construction Services**
 - i. The maximum not-to-exceed amount authorized for this phase is **\$XX,XXX.00 USD**. Fees shall be paid to the CMAR from the City based Lump Sum basis as described in Appendix B.
- c. **Phase 2: Guaranteed Maximum Price (GMP)**
 - i. If this Agreement is executed before establishment of the Guaranteed Maximum Price and its acceptance by the City, then the GMP and its basis shall be set forth in a GMP Change Order.
 - ii. In the event all Parties agree the drawings and specifications are sufficiently complete after bids are received, Construction Manager shall prepare and submit to the City in writing a GMP. The GMP proposal shall include the cost of the Work, Construction Manager's Fee, the clarifications upon which it is based, but shall not include compensation for Preconstruction Services (Phase 1).
 - iii. FAILURE TO ACCEPT THE GMP PROPOSAL: Unless the City accepts the GMP Proposal in writing the GMP Proposal shall not be effective. If City fails to accept the GMP Proposal, or rejects the GMP Proposal, City shall have the right to:
 1. suggest modifications to the GMP Proposal
 2. terminate the Agreement for convenience
 - iv. PRE-GMP WORK: Before City acceptance of the GMP Proposal, Construction Manager shall not incur any cost to be reimbursed as part of the Cost of the Work, except as provided in this Agreement or as City may specifically authorize in advanced writing.
 - v. GMP shall include an itemized cost items from the CMAR, including but not limited to:
 1. Labor wages directly employed by Construction Manager in performing of the Work.
 2. Salaries of Construction Manager's employees when stationed at the field office, in whatever capacity employed, employees engaged on the road expediting the production or transportation of material and equipment, and employees from the principal or branch office as mutually agreed by the Parties in writing.

3. Cost of all employee benefits and taxes, including but not limited to, workers' compensation, unemployment compensation, social security, health, welfare, retirement, and other fringe benefits as required by law, labor agreements, or paid under Construction Manager's standard personnel policy, insofar as such costs are paid to employees of Construction Manager who are included in the Cost of the Work.
4. Transportation, travel, hotel, and moving expenses of Construction Manager's personnel incurred in connection with the Work.
5. Cost of all materials, supplies, and equipment incorporated in the Work, including costs of inspection and testing if not provided by City, transportation, storage, and handling.
6. Payments made by Construction Manager to Subcontractors for work performed under this Agreement.
7. Cost, including transportation and maintenance of all materials, supplies, equipment, temporary facilities, and hand tools not owned by the workers that are used or consumed in the performance of the Work, less salvage value or residual value; and cost less salvage value on such items used, but not consumed that remain the property of Construction Manager.
8. Rental charges of all necessary machinery and equipment, exclusive of hand tools owned by workers, used at the Worksite, whether rented from Construction Manager or others, including installation, repair, and replacement, dismantling, removal, maintenance, transportation, and delivery costs at competitive market rates.
9. Cost of the premiums for all insurance and surety, performance or payment bonds which Construction Manager is required to procure or deems necessary and approved by City including any additional premium incurred as a result of any increase in the GMP at fixed rates approved by the City.
10. Sales, use, gross receipts, or other taxes, tariffs, or duties related to the Work for which Construction Manager is liable.
11. Permits, taxes, fees, licenses, tests, royalties.
12. Losses, expenses, or damages to the extent not compensated by insurance or otherwise, and the cost of corrective work during the Construction Phase and for the warranty period.
13. Costs associated with establishing, equipping, operating, maintaining, mobilizing and demobilizing the field office.
14. Water, power, and fuel costs necessary for the Work.
15. Cost of removal of all nonhazardous substances, debris, and waste materials
16. Costs incurred due to an emergency affecting the safety of persons or property.
17. Costs directly incurred in the performance of the Work or in connection with the Project, and not included in Construction Manager's Fee, which are reasonably inferable from the Contract Documents.

- d. Fees set for the construction of this project are intended to be executed upon agreement of all parties in a not to exceed form via change order. Due to the bond funding nature of this project, all parties agree payment to the CMAR shall be made as follows:
 - i. The City shall be responsible for a not to exceed cap.
 - ii. Final amounts shall be identified with a Change Order, pursuant to agreement of all parties of a Guaranteed Maximum Price.
- e. CMAR shall track, log and report expenses directly related to this Agreement along with invoice which shall include schedule of values for payment for each month. Invoices shall be itemized. Invoice and payment requests shall not exceed the percentage for work completed as defined.
- f. Payment Terms: All invoices are payable upon approval and due within thirty (30) calendar days. If a portion of an invoice or statement is disputed by CITY, the undisputed portion shall be paid. CITY OF FAYETTEVILLE shall advise CMAR in writing of the basis for any disputed portion of any invoice. CITY shall make reasonable effort to pay invoices within 30 calendar days of date the invoice is approved.
- g. STORED MATERIALS AND EQUIPMENT: Unless otherwise provided in the contract documents, applications for payment may include materials and equipment not yet incorporated into the Work but delivered to and suitably stored onsite or offsite including applicable insurance, storage, and costs incurred transporting the materials to an offsite storage facility. Approval of payment applications for stored materials and equipment stored offsite shall be conditioned on a submission by Construction Manager of bills of sale and proof of required insurance, or such other documentation satisfactory to City to establish the proper valuation of the stored materials and equipment, City's title to such materials and equipment, and to otherwise protect City's interests therein, including transportation to the Worksite. Materials and equipment stored offsite shall be in a bonded and insured secure facility.
- h. Monthly invoices for each calendar month shall be submitted to City or such parties as City may designate for professional services consistent with CMAR's normal billing schedule. Once established, the billing schedule shall be maintained throughout the duration of the Project. Invoices shall be made in accordance with a format to be developed by CMAR and approved by City. Applications for payment shall be accompanied each month by the updated project schedule as the basis for determining the value earned as the work is accomplished. Final payment for professional services shall be made upon CITY OF FAYETTEVILLE'S approval and acceptance with the satisfactory completion of professional services for the Project.
 - i. Retainage in the amount of five percent (5%) will be withheld from each payment until project final completion.
 - ii. Upon Substantial Completion, the City may release retainage on that portion of the Work a Subcontractor has completed in whole or in part, and which City have accepted.
- i. Final Payment: Upon satisfactory completion of the work performed under this Agreement, as a condition before final payment under this Agreement, or as a termination settlement under this Agreement, CMAR shall execute and deliver to CITY OF FAYETTEVILLE a release of all claims against CITY OF FAYETTEVILLE arising under or by virtue of this Agreement, except claims which are specifically exempted by CMAR to be set forth therein.
 - i. Unless otherwise provided in this Agreement or by State law or otherwise expressly agreed to by the parties to this Agreement, final payment under this Agreement or settlement upon termination of this Agreement shall not constitute a waiver of CITY OF FAYETTEVILLE's claims against CMAR or sureties under this Agreement.

11. Project Bonding: Performance and payment bonding. After execution of this contract by all parties, CMAR shall provide a 100% **separate** performance and payment bond from a bonding company, licensed to do business in the state of Arkansas, to the City of Fayetteville after being file marked at the Washington County Circuit Clerk's Office. Bonds shall be inclusive of any approved contingency. Bonds shall be provided within ten (10) calendar days after GMP change order has been executed and approved by all parties.

- a. Construction contracts for the project shall not be entered into between the CMAR and sub-contractor without a 100% payment and performance bond in the amount of the contract (including any approved contingency) and any amendments thereto and shall provide for the manner in which the construction shall be managed and supervised. Bonds shall be valid and exchanged between all parties prior to the start of work.
- b. A maintenance bond shall be provided for the duration of the entire warranty period.
- c. All bonds shall be listed with the U.S. Treasury Department listing of approved surety's (T-List) and shall be rated A+ minimum by A. M. Best.

12. Time:

- a. SUBSTANTIAL and FINAL COMPLETION: Date of Substantial Completion and the Date of Final Completion shall be established in a GMP Change Order to this Agreement (GMP) as a hard not to exceed date. If such dates are not established upon the execution of this Agreement, at such time as GMP is accepted a Date of Substantial Completion and Date of Final Completion of the Work shall be established in a GMP Change Order.
- b. Time is of the essence with regards to the obligations of the Contract Documents.
- c. Unless instructed by City in writing, Construction Manager shall not knowingly commence the Work before the effective date of Construction Manager's required insurance and bonds.
- d. Schedule of Work: Before submitting its first application for payment, Construction Manager shall submit to City and, if directed, Design Professional a Schedule of the Work showing the dates on which Construction Manager plans to begin and complete various parts of the Work, including dates on which information and approvals are required from City. Except as otherwise directed by City, Construction Manager shall comply with the approved Schedule of the Work or Construction Manager.
 - i. Unless otherwise agreed, the Schedule of the Work shall be formatted in a detailed precedence-style critical path method that (a) provides a graphic representation of all activities and events, including float values that will affect the critical path of the Work, and (b) identifies dates that are critical to ensure timely and orderly completion of the Work.
 - ii. Construction Manager shall update the Schedule of the Work on a bi-monthly basis or as mutually agreed by all Parties.
 - iii. City may determine the sequence in which the Work shall be performed, provided it does not unreasonably interfere with the approved project schedule. City may require Construction Manager to make reasonable changes in the sequence at any time during the performance of the Work in order to facilitate the performance of work by City or Others. If Construction Manager consequently incurs costs or is delayed, the GMP or the Dates of Substantial or Final Completion, or both, Construction Manager may seek equitable adjustment.
- e. NOTICE OF DELAY CLAIMS: If Construction Manager requests an equitable extension of the Contract Time or an equitable adjustment in the GMP as a result of a delay described, Construction Manager shall give

City written notice of the claim. If Construction Manager causes delay in the completion of the Work, City shall be entitled to recover its additional costs.

- f. **MONITORING PROGRESS AND COSTS:** Following acceptance by City of the GMP, Construction Manager shall establish a process for monitoring actual costs against the GMP and actual progress against the Schedule of Work. Construction Manager shall provide written reports to City at intervals as agreed to by all Parties on the status of the Work, showing variances between actual costs and the GMP and actual progress as compared to the Schedule of Work, including estimates of future costs and recovery programs if actual progress indicates that the Dates of Substantial Completion or Final Completion may not be met.

13. Determination of Contract Time:

- a. General.
 - i. The time allowed for the completion of the Work included in the Contract will be stated in the Proposal and Contract and will be known as the "Contract Time". The contract time will be specified as a fixed completion date or as **calendar days**.
 - ii. The CMAR shall take into consideration all normal conditions considered unfavorable to the normal progress of the Work and place a sufficient work force and equipment on the project to ensure completion of the Work within the contract time.
 - iii. The Engineer/City Engineer will determine the date upon which the Contract is substantially complete and time assessment will cease. In the event cleanup is necessary or items found at the final inspection are to be corrected, the CMAR shall complete this work in a timely manner, or the Engineer/City Engineer will resume time charges.
- b. Fixed Completion Date. When the contract time is specified as a fixed date, it will be the date on which all work on the project shall be substantially complete.
- c. Calendar Day. Calendar day contract time includes delays for normal weather-related events, such as rain, snow, and freezing temperatures that may affect the progress of the construction in the following amounts on a per-month basis as hereinafter set out. Only weather-related delays in excess of these amounts will be considered for time extensions, if requested by the CMAR. Days included in the Contract Times for Normal Weather-Related Events, on a monthly basis, include:

Month	Days
January	11
February	9
March	8
April	8
May	8
June	8
July	7
August	7
September	7
October	7
November	7
December	8

- i. No changes in contract times will be allowed for any reason without a request in writing from the CMAR. This request shall include reasons for the request with supporting documentation as proof of extraordinary delays beyond the CMAR's control. Normal rainfall amounts and soil conditions will not be considered as reasons for extensions of time, nor will workload of the Contractor. The

request must be submitted for to the Engineer/City Engineer within 5 days of the end of the month to be considered. No compensation will be made for monetary damages due to weather delay(s).

- d. Working Day. Working Day. Only when the contract time is specified in working days, the provisions of Section 109.08(d) shall apply.
- i. Time will be assessed for each day on which, in the judgment of the Engineer/City Engineer and subject to the limitations below, conditions allow the Contractor to effectively utilize 60% of normal forces and equipment to prosecute the work required at that time, for at least 60% of the Contractor's normal working hours, regardless of whether the CMAR actually works.
 - ii. The Engineer/City Engineer will not assess a working day when conditions exist beyond the control and without the fault of the CMAR that prevent the utilization of forces and equipment as defined above. Also, for the purpose of assessment of working days, inaccessibility to a portion of the work due to utility conflict or utility work, either of which prevents utilization of forces and equipment as defined above, will be considered as an adverse working condition for the time exceeding that specified in the Contract for the utility adjustment. The ability of vendors, suppliers, and subcontractors to provide materials and/or services is considered within the CMAR's control for the purpose of assessment of working days. Time from December 21 through January 15, inclusive, will not be assessed against the contract time.
 - i. Saturdays and City recognized holidays, other than those designated above, which may be declared by the City for certain special or unusual circumstances, will be optional to the CMAR as working days, and time will not be assessed unless work is performed that requires inspection. If work is performed, contract time assessment will be based upon the same conditions as a normal working day.
 - ii. Contract time will not be assessed during a full suspension of the work as ordered by the Engineer/City Engineer. During a partial suspension of the work as ordered by the Engineer/City Engineer, the contract time will be assessed in direct proportion to the ratio of the money value of the items not suspended to the total contract amount.
 - iii. Each pay estimate will state the each working day charged during the preceding period and the total number of working days charged to date. If the CMAR disagrees with the working days charged by the Engineer/City Engineer, then the Contractor shall, within 10 calendar days of signing the pay estimate, give the Engineer/City Engineer written notice of such disagreement and the reasons, therefore. If the CMAR does not provide written notice within 10 calendar days of signing the pay estimate, no subsequent request for review will be considered.

14. Substantial Completion:

- a. Construction Manager shall notify City and, if directed, Design Professional when it considers Substantial Completion of the Work or a designated portion to have been achieved. City, with the assistance of its Design Professional, shall promptly conduct an inspection to determine whether the Work or designated portion can be occupied or used for its intended use by City without excessive interference in completing any remaining unfinished Work. If City determines the Work or designated portion has not reached Substantial Completion, City, with the assistance of its Design Professional, shall promptly compile a list of items to be completed or corrected so City may occupy or use the Work or designated portion for its intended use. Construction Manager shall promptly and accurately complete all items on the list.
- b. When Substantial Completion of the Work or a designated portion is achieved, Construction Manager shall prepare a Certificate of Substantial Completion establishing the date of Substantial Completion and

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the respective responsibilities of each Party for interim items such as security, maintenance, utilities, insurance, and damage to the Work, and fixing the time for completion of all items on the list accompanying the Certificate. The Certificate of Substantial Completion shall be submitted by Construction Manager to City and, if directed, to Design Professional for written acceptance of responsibilities assigned in the Certificate of Substantial Completion.

- c. Unless otherwise provided in the Certificate of Substantial Completion, warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or a designated portion.
- d. Upon City's written acceptance of the Certificate of Substantial Completion, City shall pay to Construction Manager the remaining retainage held by City for the Work described in the Certificate of Substantial Completion less a sum equal to one hundred and fifty percent (150%) of the estimated cost of completing or correcting remaining items on that part of the Work, as agreed to by the Parties as necessary to achieve Final Completion, including all close outs. Uncompleted items shall be completed by Construction Manager in a mutually agreed upon timeframe.

15. Final Completion:

- a. Upon notification from Construction Manager that the Work is complete and ready for final inspection and acceptance, City, with the assistance of its Design Professional shall promptly conduct an inspection to determine if the Work has been completed and is acceptable under the Contract Documents.
- b. When the Work is complete, Construction Manager shall prepare for City's written acceptance a final application for payment stating that to the best of Construction Manager's knowledge, and based on City's inspections, the Work has reached Final Completion in accordance with the Contract Documents.
- c. Final payment of the balance of the GMP shall be made to Construction Manager within thirty (30) Days after Construction Manager has submitted an application for final payment, pending the application has been approved by the City, including submissions required, and a Certificate of Final Completion has been executed by all Parties.
- d. Final payment shall be due on Construction Manager's submission of the following to the City:
 - i. an affidavit declaring any indebtedness connected with the Work, to have been paid, satisfied, or to be paid with the proceeds of final payment, so as not to encumber City property;
 - ii. as-built drawings, manuals, copies of warranties, and all other close-out documents required by the Contract Documents;
 - iii. release of any liens, conditioned on final payment being received;
 - iv. consent of any surety; and
 - v. any outstanding known and unreported accidents or injuries experienced by Construction Manager or its Subcontractors at the Worksite.
 - vi. If, after Substantial Completion of the Work, the Final Completion of a portion of the Work is materially delayed through no fault of Construction Manager. If approved by City, they shall pay the balance due for any portion of the Work fully completed and accepted. If the remaining contract balance for Work not fully completed and accepted is less than the retained amount before payment, Construction Manager shall submit to City and, if directed, Design Professional the written consent of any surety to payment of the balance due for portions of the Work that

are fully completed and accepted. Such payment shall not constitute a waiver of claims, but otherwise shall be governed by this section.

- vii. ACCEPTANCE OF FINAL PAYMENT: Unless Construction Manager provides written identification of unsettled claims with an application for final payment, its acceptance of final payment constitutes a waiver of such claims.
- e. CMAR shall ensure that the City of Fayetteville receives lien waivers from all material suppliers, subcontractors and sub-subcontractors and **before** work begins on the project. The contractor shall give written notice to the material suppliers, subcontractors and sub-subcontractors providing work on the project that states the following:
 - i. *'According to Arkansas law, it is understood that no liens can be filed against public property if valid and enforceable payment and performance bond is in place. Regarding this Project and Agreement, the valid and enforceable bonds are with (name of surety).'*
 - ii. CMAR shall direct its subcontractors to obtain a written receipt evidencing acknowledgment of this statement from sub-subcontractors.

16. Liquidated Damages:

- a. SUBSTANTIAL COMPLETION: Liquidated damages based on the Substantial Completion date, to be determined in a GMP Change Order, shall apply.
 - i. City will suffer damages which are difficult to determine and accurately specify if the Substantial Completion date, which may be amended by Change Order, is not attained. Construction Manager shall pay City seven hundred fifty US dollars (\$750.00 USD) per calendar day as liquidated damages and not as a penalty for each Day that Substantial Completion extends beyond the Substantial Completion date.

17. Notices:

- a. Any notice required to be given under this Agreement to either party to the other shall be sufficient if addressed and mailed, certified mail, postage paid, delivery, fax or e-mail (receipt confirmed), or overnight courier.

18. Jurisdiction:

- a. Legal jurisdiction to resolve any disputes shall be Arkansas with Arkansas law applying to the case.

19. Venue:

- a. Venue for all legal disputes shall be Washington County, Arkansas.

20. Freedom of Information Act:

- a. City of Fayetteville contracts and documents prepared while performing 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 CMAR shall 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 photo copying costs pursuant to the FOIA may be assessed for this compliance.

21. Changes in Scope or Price:

- a. 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.

22. Insurance:

- a. Before starting the Work and as a condition precedent to payment, Construction Manager shall procure and maintain in force Workers' Compensation Insurance, Employers' Liability Insurance, Business Automobile Liability Insurance, and Commercial General Liability Insurance ("CGL"). The CGL policy shall include coverage for liability arising from premises, operations, independent contractors, products-completed operations, personal injury and advertising injury, contractual liability, pollution coverage, and broad form property damage. Construction Manager shall maintain completed operations liability insurance for one year after Substantial Completion, or as required by the Contract Documents, whichever is longer. Construction Manager's Employers' Liability, Business Automobile Liability and CGL policies shall be written with at least the limits of liability presented in **Appendix E**.
- b. Employers' Liability, Business Automobile Liability, and CGL coverages required may be provided by a single policy for the full limits required or by a combination of underlying policies with the balance provided by excess or umbrella liability policies.
- c. Construction Manager shall maintain in effect all insurance coverage required with insurance companies lawfully authorized to do business in the jurisdiction in which the Project is located. If Construction Manager fails to obtain or maintain any insurance coverage required under this Agreement, City may purchase such coverage and charge the expense to Construction Manager or terminate this Agreement.
- d. To the extent commercially available to Construction Manager from its current insurance company, insurance policies required shall contain a provision that the insurance company or its designee shall give City written notice transmitted in paper and electronic format: (a) 30 Days before coverage is nonrenewed by the insurance company and (b) within 10 Business Days after cancelation of coverage by the insurance company. Before commencing the Work and upon renewal or replacement of the insurance policies, Construction Manager shall furnish City with certificates of insurance until one year after Substantial Completion or longer if required by the Contract Documents. In addition, if any insurance policy required is not to be immediately replaced without lapse in coverage when it expires, exhausts its limits, or is to be cancelled, Construction Manager shall give City prompt written notice upon actual or constructive knowledge of such condition.
- e. Certificates of Insurance shall list the City as Additional Insured Parties.
- f. **PROPERTY INSURANCE:**
 - i. At no time shall any policy be covered by self-insurance or in a self-insured format. All policies shall be covered by an approved commercial insurance professional properly licensed to do business in Arkansas.
 - ii. Unless otherwise directed in writing by City, before starting the Work, CMAR shall obtain and maintain a Builder's Risk Policy upon the entire Project for the full cost of replacement at the time of loss, including existing structures. This insurance shall also (a) name Construction Manager, Subcontractors, Subsubcontractors, and Design Professional as named insureds; (b) be written in such form to cover all risks of physical loss except those specifically excluded by the policy; and (c) insure at least against and **not** exclude:

1. the perils of fire, lightning, explosion, windstorm, hail, smoke, aircraft (except aircraft, including helicopter, operated by or on behalf of Construction Manager) and vehicles, riot and civil commotion, theft, vandalism, malicious mischief, debris removal, flood, earthquake, earth movement, water damage, wind damage, testing if applicable, collapse, however caused;
 2. damage resulting from defective design, workmanship, or material;
 3. coverage extension for damage to existing buildings, plant, or other structures at the Worksite, when the Project is contained within or attached to such existing buildings, plant or structures. Coverage shall be to the extent loss or damage arises out of Constructor's activities or operations at the Project;
 4. equipment breakdown, including mechanical breakdown, electrical injury to electrical devices, explosion of steam equipment, and damage to steam equipment caused by a condition within the equipment;
 5. testing coverage for running newly installed machinery and equipment at or beyond the specified limits of their capacity to determine whether they are fit for their intended use; and
 6. physical loss resulting from Terrorism.
- iii. The Party that is the primary cause of a Builder's Risk Policy claim shall be responsible for any deductible amounts or coinsurance payments. If no Party is the primary cause of a claim, then the Party obtaining and maintaining the Builder's Risk Policy shall be responsible for the deductible amounts or coinsurance payments. This policy shall provide for a waiver of subrogation. This insurance shall remain in effect until final payment has been made or until no person or entity other than City has an insurable interest in the property to be covered by this insurance, whichever is sooner. Partial occupancy or use of the Work shall not commence until City has secured the consent of the insurance company or companies providing the coverage required in this subsection. Before commencing the Work, City shall provide a copy of the property policy or policies obtained.
- iv. If City elects to purchase the property insurance required by this Agreement, including all of the coverages and deductibles for the same durations specified, City shall give written notice to Construction Manager before the Work is commenced and provide a copy of the property policy or policies obtained in compliance with this agreement. City may then provide insurance to protect its interests and the interests of the Constructor, Subcontractors, Suppliers, and Subsubcontractors. The cost of this insurance shall be paid by City in a Change Order. If City gives written notice of its intent to purchase property insurance required by this Agreement and fails to purchase or maintain such insurance, City shall be responsible for costs reasonably attributed to such failure.
- v. The Parties each waive all rights against each other and their respective employees, agents, contractors, subcontractors, suppliers, sub-subcontractors, and design professionals for damages caused by risks covered by the property insurance, except such rights as they may have to the proceeds of the insurance.
1. To the extent of the limits of Construction Manager's Commercial General Liability Insurance, Construction Manager shall indemnify and hold harmless City against any and all liability, claims, demands, damages, losses, and expenses, including attorneys' fees, in connection with or arising out of any damage or alleged damage to any of City's existing

adjacent property, including personal property, that may arise from the performance of the Work, to the extent caused by the negligent or intentionally wrongful acts or omissions of Construction Manager, Subcontractor, Supplier, Sub-subcontractor, or anyone employed directly or indirectly by any of them or by anyone for whose acts any of them may be liable.

- g. RISK OF LOSS: Except to the extent a loss is covered by applicable insurance, risk of loss from damage to the Work shall be upon the Party obtaining and maintaining the Builder's Risk until the Date of Final Completion.
- h. ADDITIONAL GENERAL LIABILITY COVERAGE: City shall require Construction Manager to purchase and maintain additional liability coverage. Construction Manager shall provide:
 - i. Additional Insured. City shall be named as an additional insured on Construction Manager's Commercial General Liability (CGL) specified, for on-going operations and completed operations, excess/umbrella liability, commercial automobile liability, and any required pollution liability, but only with respect to liability for bodily injury, property damage, or personal and advertising injury to the extent caused by the negligent acts or omissions of Construction Manager, or those acting on Construction Manager's behalf, in the performance of Construction Manager's work for Owner at the Worksite. The insurance of the Construction Manager and its Subcontractors (both primary and excess) shall be primary to any insurance available to the Additional Insureds. Any insurance available to the Additional Insureds shall be excess and non-contributory.
 - ii. OCP. Construction Manager shall provide an Owners' and Contractors' Protective Liability Insurance ("OCP") policy with limits equal to the limits on CGL specified, or limits as otherwise required by Owner.
- i. Any documented additional cost in the form of a surcharge associated with procuring the additional liability coverage in accordance with this subsection shall be paid by CMAR. Before commencing the Work, Construction Manager shall provide either a copy of the OCP policy, or a certificate and endorsement evidencing that City has been named as an additional insured, as applicable.
 - i. ROYALTIES, PATENTS, AND COPYRIGHTS: Construction Manager shall pay all royalties and license fees , unless otherwise specified in the Contract Documents, which may be due on the inclusion of any patented or copyrighted materials, methods, or systems selected by Construction Manager and incorporated in the Work. Construction Manager shall defend, indemnify, and hold City harmless from all suits or claims for infringement of any patent rights or copyrights arising out of such selection unless such design, process or product of a particular manufacturer or manufacturers is required by the Contract Documents, or where the copyright violations are contained in documents prepared by the Owner.
- j. PROFESSIONAL LIABILITY INSURANCE: To the extent Construction Manager is required to procure design services, Construction Manager shall require its design professionals to obtain a commercial professional liability insurance for claims arising from the negligent performance of professional services under this Agreement, with a company reasonably satisfactory to City, including coverage for all professional liability caused by any consultants to Construction Manager's design professional, written for not less than one million US dollars (\$1,000,000) per claim and in the aggregate. Construction Manager's design professional shall pay the deductible. The Professional Liability Insurance shall contain a retroactive date providing prior acts coverage sufficient to cover all Services performed by the Constructor's design professional for this Project. Coverage shall be continued in effect for the entire warranty period.

23. Professional Responsibility:

- a. CMAR will exercise reasonable skill, care, and diligence in the performance of services and will carry out its responsibilities in accordance with customarily accepted professional practices. CITY OF FAYETTEVILLE will promptly report to CMAR any defects or suspected defects in services of which CITY OF FAYETTEVILLE becomes aware, so CMAR can take measures to minimize the consequences of such a defect. CITY OF FAYETTEVILLE retains all remedies to recover for its damages caused by any negligence of CMAR.

24. Responsibility of the City of Fayetteville

- a. CITY OF FAYETTEVILLE shall, within a reasonable time, so as not to delay the services of CMAR:
 - i. Provide full information as to the requirements for the Project.
 - ii. Assist CMAR by placing at CMAR's disposal all available information pertinent to the assignment including previous reports and any other data relative thereto.
 - iii. Assist CMAR in obtaining access to property reasonably necessary for CMAR to perform its services.
 - iv. Examine all studies, reports, sketches, cost opinions, proposals, and other documents presented by CMAR and render in writing decisions pertaining thereto.
 - v. Review all documents and provide written comments to CMAR in a timely manner.
 - vi. The City of Fayetteville Bond Projects & Construction Manager, or their designee, is the project representatives with respect to the services to be performed under this Agreement. The Bond Projects & Construction Manager shall have complete authority to transmit instructions, receive information, interpret and define policies and decisions with respect to materials, equipment, elements and systems to be used in the Project, and other matters pertinent to the services covered by this Agreement.

25. Cost Opinions and Projections:

- a. Cost opinions and projections prepared by the CMAR relating to construction costs and schedules, operation and maintenance costs, equipment characteristics and performance, cost estimating, and operating results are based on CMAR's experience, qualifications, and judgment as a CMAR professional.

26. Period of Service: This Agreement will become effective upon the first written notice by CITY OF FAYETTEVILLE authorizing services hereunder.

- a. The provisions of this Agreement have been agreed to in anticipation of the orderly progress of the Project through completion of the services stated in the Agreement. CMAR shall proceed with providing the authorized services immediately upon receipt of written authorization from CITY OF FAYETTEVILLE. Said authorization shall include the scope of the services authorized and the time in which the services are to be completed. The anticipated schedule for this project is included with **Appendix B**.

27. Termination:

- a. This Agreement may be terminated in whole or in part in writing by either party in the event of substantial failure by the other party to fulfill its obligations under this Agreement through no fault of the terminating party, provided that no termination may be effected unless the other party is given:

- i. Not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate,
 - ii. An opportunity for consultation with the terminating party prior to termination.
- b. This Agreement may be terminated in whole or in part in writing by CITY OF FAYETTEVILLE for its convenience, provided that CMAR is given:
 - i. Not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate,
 - ii. An opportunity for consultation with the terminating party prior to termination.
- c. If termination for default is affected by CITY OF FAYETTEVILLE, an equitable adjustment in the price provided for in this Agreement shall be made, but
 - i. No amount shall be allowed for anticipated profit on unperformed services or other work,
 - ii. Any payment due to CMAR at the time of termination may be adjusted to cover any additional costs to CITY OF FAYETTEVILLE because of CMAR's default.
- d. If termination for default is affected by CMAR, or if termination for convenience is affected by CITY OF FAYETTEVILLE, the equitable adjustment shall include a reasonable profit for services or other work performed. The equitable adjustment for any termination shall provide for payment to CMAR for services rendered and expenses incurred prior to the termination, in addition to termination settlement costs reasonably incurred by CMAR relating to commitments which had become firm prior to the termination.
- e. Upon receipt of a termination action under Paragraphs above, CMAR shall:
 - i. Promptly discontinue all affected work (unless the notice directs otherwise),
 - ii. Deliver or otherwise make available to CITY OF FAYETTEVILLE all data, drawings, specifications, reports, estimates, summaries and such other information and materials as may have been accumulated by CMAR in performing this Agreement, whether completed or in process.
- f. Upon termination under sections above CITY OF FAYETTEVILLE may take over the work and may award another party an agreement to complete the work under this Agreement.
- g. If, after termination for failure of CMAR to fulfill contractual obligations, it is determined that CMAR had not failed to fulfill contractual obligations, the termination shall be deemed to have been for the convenience of CITY OF FAYETTEVILLE. In such event, adjustments of the agreement price shall be made as provided in this agreement.

28. Delays

- a. In the event the services of CMAR are suspended or delayed by CITY OF FAYETTEVILLE, or by other events beyond CMAR's reasonable control, CMAR shall be entitled to additional compensation and time for reasonable documented costs incurred by CMAR in temporarily closing down or delaying the Project.
- b. In the event the services are suspended or delayed by CMAR, CITY shall be entitled to compensation and time for reasonable costs incurred in temporarily closing down or delaying the Project.

29. Rights and Benefits

- a. CMAR's services shall be performed solely for the benefit of CITY OF FAYETTEVILLE and not for the benefit of any other persons or entities.

30. Dispute Resolution

- a. Scope of Paragraph: The procedures of this Paragraph shall apply to any and all disputes between CITY OF FAYETTEVILLE and CMAR which arise from, or in any way are related to, this Agreement, including, but not limited to the interpretation of this Agreement, the enforcement of its terms, any acts, errors, or omissions of CITY OF FAYETTEVILLE or CMAR in the performance of this Agreement, and disputes concerning payment.
- b. Exhaustion of Remedies Required: No action may be filed unless the parties first negotiate. If timely Notice is given as described in this agreement, but an action is initiated prior to exhaustion of these procedures, such action shall be stayed, upon application by either party to a court of proper jurisdiction, until the procedures in this agreement have been complied with.
- c. Notice of Dispute
 - i. For disputes arising prior to the making of final payment promptly after the occurrence of any incident, action, or failure to act upon which a claim is based, the party seeking relief shall serve the other party with a written Notice.
 - ii. For disputes arising within one year after the making of final payment, CITY OF FAYETTEVILLE shall give CMAR written Notice at the address listed in this agreement within thirty (30) calendar days after occurrence of any incident, accident, or first observance of defect or damage. In both instances, the Notice shall specify the nature and amount of relief sought, the reason relief should be granted, and the appropriate portions of this Agreement that authorize the relief requested.
 - iii. Negotiation: Within seven (7) calendar days of receipt of the Notice, the Project Managers for CITY OF FAYETTEVILLE and CMAR shall confer in an effort to resolve the dispute. If the dispute cannot be resolved at that level, then, upon written request of either side, the matter shall be referred to the President of CMAR, and the Mayor of CITY OF FAYETTEVILLE or his or her designee. These officers shall meet at the Project Site or such other location as is agreed upon within 30 calendar days of the written request to resolve the dispute.

31. Sufficient Funds:

- a. The CITY represents to have sufficient funds or the means of obtaining funds to remit payment to CMAR for services rendered by CMAR. All parties agree if funding should become insufficient to complete the project, CMAR shall be notified in a timely manner.

32. Publications:

- a. Recognizing the importance of professional services on the part of CMAR's employees and the importance of CMAR's public relations, CMAR may prepare publications, such as technical papers, articles for periodicals, promotional materials, and press releases, in electronic or other format, pertaining to CMAR's services for the Project. Such publications will be provided to CITY OF FAYETTEVILLE in draft form for CITY OF FAYETTEVILLE's advance review. CITY OF FAYETTEVILLE shall review such drafts promptly and provide CITY OF FAYETTEVILLE's comments to CMAR, CITY OF FAYETTEVILLE may require deletion of proprietary data or confidential information from such publications, but otherwise CITY OF FAYETTEVILLE will not unreasonably withhold approval. Approved materials may be used in a variety of situations and do not require additional review or approval for each use. The cost of CMAR's activities pertaining to any such publication shall be for CMAR's account.

33. Indemnification:

- a. To the fullest extent permitted by law, the CMAR shall indemnify and hold harmless the City from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death or injury to or destruction of tangible property (other than the Work itself) but only to the extent caused by the negligent acts or omissions of the CMAR, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Agreement.

34. Ownership of Documents:

- a. All documents provided by CITY OF FAYETTEVILLE including original drawings, CAD drawings, estimates, field notes, and project data are and remain the property of CITY OF FAYETTEVILLE. CMAR may retain reproduced copies of drawings and copies of other documents.
- b. Engineering and architectural documents, computer models, drawings, specifications and other hard copy or electronic media prepared by CMAR as part of the Services shall become the property of CITY OF FAYETTEVILLE when CMAR has been compensated for all Services rendered, provided, however, that CMAR shall have the unrestricted right to their use. CMAR shall, however, retain its rights in its standard drawings details, specifications, databases, computer software, and other proprietary property. Rights to intellectual property developed, utilized, or modified in the performance of the Services shall remain the property of CMAR.
- c. Any files delivered in electronic medium may not work on systems and software different than those with which they were originally produced. CMAR makes no warranty as to the compatibility of these files with any other system or software. Because of the potential degradation of electronic medium over time, in the event of a conflict between the sealed original drawings/hard copies and the electronic files, the sealed drawings/hard copies will govern.

35. Additional Responsibilities of CMAR:

- a. Review, approval, or acceptance of design drawings, specifications, reports and other services furnished hereunder by CITY shall not in any way relieve CMAR of responsibility for the technical adequacy of the work. Review, approval or acceptance of, or payment for any of the services by CITY shall not be construed as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.
- b. CMAR shall be and shall remain liable, in accordance with applicable law, for all damages to CITY OF FAYETTEVILLE caused by CMAR's negligent performance, except beyond the CMAR's normal standard of care, of any of the services furnished under this Agreement, and except for errors, omissions or other deficiencies to the extent attributable to CITY OF FAYETTEVILLE or CITY OF FAYETTEVILLE-furnished data.
- c. CMAR's obligations under this clause are in addition to CMAR's other express or implied assurances under this Agreement or State law and in no way diminish any other rights that CITY OF FAYETTEVILLE may have against CMAR for faulty materials, equipment, or work.

36. Audit and Access to Records:

- a. CMAR shall maintain books, records, documents and other evidence directly pertinent to performance on work under this Agreement in accordance with generally accepted accounting principles and practices consistently applied in effect on the date of execution of this Agreement.
- b. CMAR shall also maintain the financial information and data used by CMAR in the preparation of support of the cost submission required for any negotiated agreement or change order and send to CITY OF FAYETTEVILLE a copy of the cost summary submitted. CITY OF FAYETTEVILLE, the State or any of their authorized representatives shall have access to all such books, records, documents and other evidence for the purpose of inspection, audit and copying during normal business hours. CMAR will provide proper facilities for such access and inspection.
- c. Records shall be maintained and made available during performance on assisted work under this Agreement and until three years from the date of final payment for the project. In addition, those records which relate to any controversy arising out of such performance, 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.
- d. This right of access clause (with respect to financial records) applies to:
 - i. Negotiated prime agreements
 - ii. Negotiated change orders or agreement amendments affecting the price of any formally advertised, competitively awarded, fixed price agreement
 - iii. Agreements or purchase orders under any agreement other than a formally advertised, competitively awarded, fixed price agreement. However, this right of access does not apply to a prime agreement, lower tier sub agreement or purchase order awarded after effective price competition, except:
 1. With respect to record pertaining directly to sub agreement performance, excluding any financial records of CMAR;
 2. If there is any indication that fraud, collusion, gross abuse or corrupt practices may be involved;
 3. If the sub agreement is terminated for default or for convenience.

37. Covenant Against Contingent Fees:

- a. CMAR warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement of understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by CMAR for the purpose of securing business. For breach or violation of this warranty, CITY OF FAYETTEVILLE shall have the right to annul this Agreement without liability or at its discretion, to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

38. Gratuities:

- a. If CITY OF FAYETTEVILLE finds after a notice and hearing that CMAR or any of CMAR agents or representatives, offered or gave gratuities (in the form of entertainment, gifts or otherwise) to any official, employee or agent of CITY OF FAYETTEVILLE or related third party contractor associated with this

project, in an attempt to secure an agreement or favorable treatment in awarding, amending or making any determinations related to the performance of this Agreement, CITY OF FAYETTEVILLE may, by written notice to CMAR terminate this Agreement. CITY OF FAYETTEVILLE may also pursue other rights and remedies that the law or this Agreement provides. However, the existence of the facts on which CITY OF FAYETTEVILLE bases such finding shall be in issue and may be reviewed in proceedings under the Remedies clause of this Agreement.

- b. The CITY may pursue the same remedies against CMAR as it could pursue in the event of a breach of the Agreement by CMAR. As a penalty, in addition to any other damages to which it may be entitled by law, CITY OF FAYETTEVILLE may pursue exemplary damages in an amount, as determined by CITY, which shall be not less than three nor more than ten times the costs CMAR incurs in providing any such gratuities to any such officer or employee.

IN WITNESS WHEREOF, CITY OF FAYETTEVILLE, ARKANSAS by and through its Mayor, and **TBD** by its authorized officer have made and executed this Agreement as of the day and year first above written.

CITY OF FAYETTEVILLE, ARKANSAS

FULL NAME OF SELECTED FIRM

By: _____

Lioneld Jordan, Mayor

By: _____

Signature

ATTEST:

By: _____

Printed Name and Title

By: _____

Kara Paxton, City Clerk

Date Signed: _____

Date Signed: _____

City of Fayetteville Staff Review Form

2023-507

Item ID

3/21/2023

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

Byron Humphry

3/2/2023

PARKS & RECREATION (520)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Staff recommends approval of a contract with Crossland Heavy Contractors, Inc., in reference to RFQ 23-02, to provide CMAR services related to the Lake Fayetteville Softball Improvement project for a not to exceed fee of \$38,950.00.

Budget Impact:

4705.860.7505-5315.00

Parks Project 2022 Bonds

Account Number

Fund

46050.7505.1000

Lake Fayetteville Improvements, Softball Fields

Project Number

Project Title

Budgeted Item? Yes

Total Amended Budget \$ 13,436,379.00

Expenses (Actual+Encum) \$ 2,437,552.04

Available Budget \$ 10,998,826.96

Does item have a direct cost? Yes

Item Cost \$ 38,950.00

Is a Budget Adjustment attached? No

Budget Adjustment \$ -

Remaining Budget \$ 10,959,876.96

V20221130

Purchase Order Number:

Previous Ordinance or Resolution # 224-22

Change Order Number:

Approval Date:

Original Contract Number:

Comments:



03/14/2023 Additional Information /
Recieved From Bryan Humphrey Via
Email At 2:27 P.M

MEETING OF MARCH 21, 2023

TO: Mayor and City Council

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

FROM: Byron Humphry, Park Maintenance Superintendent

DATE: March 2, 2023

SUBJECT: **Contract with Crossland Heavy Contractors, Inc. for Construction Manager at Risk (CMAR) Services for the Lake Fayetteville Softball Improvement project.**

RECOMMENDATION:

Staff recommends approval of a contract with Crossland Heavy Contractors, Inc., in reference to RFQ 23-02, to provide CMAR services related to the Lake Fayetteville Softball Improvement project for a not to exceed fee of \$38,950.00.

BACKGROUND:

On October 4, 2022, City Council approved Resolution 224-22 to enter a contract with Crafton Tull & Associates, Inc. to provide professional architectural and engineering service associated with the design of the Lake Fayetteville Softball Improvement project. Crafton Tull is currently working through the preliminary design of the softball complex renovations. In late March, Crafton Tull will begin the process of refining the plan into the final design. At this point it becomes critical for project success to have construction management services available to evaluate design, suggest localized construction methods and materials and provide costs to various design elements.

DISCUSSION:

On January 22, 2023, the City of Fayetteville advertised RFQ 23-02 and accepted requests for qualifications from construction management companies to provide CMAR services for the Lake Fayetteville Softball Improvement project. On February 23, 2023 a selection committee made up of City staff and elected officials reviewed submittals from four construction management professionals that responded to the request for qualifications and short listed the applicants to two companies. On March 9, 2023, the selection committee interviewed the two companies. The committee selected and negotiated a contract with Crossland Heavy Contractors, Inc. to complete this task. The scope of work for the CMAR will be split into two phases:

The contract for consideration at this time is Phase 1 only and will consist of preconstruction services. This will include working closely with Crafton Tull to provide timely cost estimating for

construction methods and practices and material selections. This estimate will be used to establish the construction budget.

Phase 2 will commence upon the completion of the final design of the Lake Fayetteville Softball Improvement project. The City will negotiate the final construction cost which will be reflected in the Guaranteed Maximum Price (GMP). The GMP proposal will include all cost associated with the construction of the Lake Fayetteville Softball Improvement project.

BUDGET/STAFF IMPACT:

The maximum not-to-exceed amount authorized for Phase 1 for preconstruction services for this agreement is \$38,950.00.

Phase 2 of this project is contingent upon City Council approval of the GMP change order proposal.

Attachments:

Contract with Crossland Heavy Contractors, Inc. for approval of Phase 1



**CONTRACT FOR PROFESSIONAL SERVICES
CONSTRUCTION MANAGER AT RISK**

RFQ 23-02, CMAR – Lake Fayetteville Ballfield Renovations

between

City of Fayetteville, Arkansas

and

Crossland Heavy Contractors, Inc.

THIS AGREEMENT is made this _____ day of _____, 2023, by and between **City of Fayetteville**, Arkansas, acting by and through its Mayor (hereinafter called CITY OF FAYETTEVILLE or CITY) and **Crossland Heavy Contractors, Inc.** (construction manager at risk, hereinafter called CMAR, Construction Manager, or Crossland OR VENDOR), and CITY OF FAYETTEVILLE from time to time requires professional CMAR services in connection with the evaluation, design, and/or construction supervision of capital improvement projects. Therefore, CITY OF FAYETTEVILLE and CMAR in consideration of their mutual covenants agree as follows:

CMAR shall serve as CITY OF FAYETTEVILLE's professional CMAR consultant in those assignments to which this Agreement applies and shall give consultation and advice to CITY OF FAYETTEVILLE during the performance of services defined in the scope of work. All services shall be performed under the direction of a CMAR registered in the State of Arkansas and licensed by the Arkansas Contractor's Licensing Board.

1. Contracted parties and relationship:

- a. This agreement shall be binding between all parties. Fees for CMAR services shall be provided as identified in appendices.
 - i. **Crossland's** Tax identification number (TIN) ending in 3185
 - ii. **Crossland's** Arkansas Contractor License No. 0067301123
 - iii. **Crossland's** Secretary of State Filing No. 100205582
- b. Parties agree to act on the basis of mutual trust, good faith, and fair dealing, and perform in a fiscally responsible and timely manner. Parties shall each endeavor to promote harmony and cooperation among all Project participants.

- 2. Entire Agreement and Exhibits:** This Agreement sets forth the entire agreement and understanding between the parties on the subject matter of this Agreement. Neither party shall be bound by any conditions, definitions, representations or warranties with respect to the subject matter of this Agreement other than those as expressly provided herein.

- a. Appendices included under this agreement include the following:
 - i. **Appendix A:** Scope of Services
 - ii. **Appendix B:** CMAR Fee Schedule
 - iii. **Appendix C:** RFQ 23-02, Construction Manager at Risk for Lake Fayetteville Ballfield Renovations
 - iv. **Appendix D:** Crossland's Response to RFQ 23-02
 - v. **Appendix E:** Crossland's current Certificate of Insurance
- b. This agreement may be modified only by a duly executed written instrument signed by the CITY and CMAR.
- c. ORDER OF PRECEDENCE: In case of any inconsistency, conflict, or ambiguity among the Contract Documents, the documents shall govern in the following order: (a) Change Orders, affidavits, and written amendments to this Agreement which are executed by all parties; (b) the Agreement; (c) CMAR's response to RFQ 23-02 (d) City's published RFQ 23-02 and associated Addenda and attachments.

3. Notices: Any notice required under this Agreement shall be in writing, address to the appropriate party at the following addresses:

- a. City of Fayetteville: Attention: Mayor Lioneld Jordan, 113 W. Mountain, Fayetteville, AR 72701
- b. Crossland Heavy Contractors, Inc.: Attention: Dan Thompson, 705 S. Lincoln Street, Lowell, AR 72745

4. General Provisions:

- i. ETHICS: All parties shall perform with integrity. Each shall avoid conflicts of interest and promptly disclose to any other part any conflicts that may arise. All parties warrant that it has not and shall not pay or receive any contingent fees or gratuities to or from any other party, including agents, officer's employers, Subcontractors, Subsubcontractors, Suppliers, Volunteers, Elected Officials, or Others to secure preferential treatment.
- ii. When the Construction Documents, Guaranteed Maximum Price (GMP), and other descriptive documents defining the work are complete, they shall be identified and included in this Agreement by mutually agreed upon amendment to this Agreement.
- iii. Workmanship: The Work shall be executed in accordance with the Contract Documents in a workmanlike manner. All materials used in the Work shall be furnished in sufficient quantities to facilitate the proper and expeditious execution of the Work and shall be new except as otherwise provided in the Contract Documents.
- iv. MATERIALS FURNISHED BY OWNER OR OTHERS: If the Work includes installation of materials or equipment furnished by City or Others, it shall be the responsibility of Construction Manager to examine the items so provided and thereupon handle, store, and install the items, unless otherwise provided in the Contract Documents, with such skill and care as to provide a satisfactory and proper installation. Loss or damage due to acts or omissions of Construction Manager shall be the responsibility of Construction Manager and may be deducted from any amounts due or to become due Construction Manager. Any defects discovered in such materials or equipment shall be reported at once to the City and the City's contracted third-party Design Professional. Following receipt of written notice from Construction Manager of defects, City and Design Professional shall promptly inform Construction Manager what action, if any, Construction Manager shall take with regard to the defects.

RFQ 23-02, CMAR - Lake Fayetteville Ballfield Renovations

Page 2 of 25

Last Revised 03.14.23

- v. WORKSITE VISIT: Construction Manager acknowledges that it has visited, or has had the opportunity to visit, the Worksite to visually inspect the general and local conditions which could affect the Work.
- vi. Construction Manager shall perform cutting, fitting, and patching necessary to coordinate the various parts of the Work and to prepare its Work for the work of City or Others.
 - 1. Cutting, patching, or altering the work of City or Others shall be done with the prior written approval of City and Design Professional. Such approval shall not be unreasonably withheld.
- vii. COMPLIANCE WITH LAWS: Construction Manager shall comply with all the Law at its own cost. Construction Manager shall be liable to City for all loss, cost, or expense attributable to any acts or omissions by Construction Manager, its employees, subcontractors, suppliers, and agents for failure to comply with Laws, including fines, penalties, or corrective measures.
 - 1. CHANGES IN THE LAW: The GMP, estimated Cost of the Work, Construction Manager's Fee, Date of Substantial Completion or Date of Final Completion, and, if appropriate, the Compensation for Preconstruction Services shall be equitably adjusted for additional costs or time needed resulting from Laws enacted after the date of this Agreement, including taxes.
- viii. COST OF CORRECTING DAMAGED OR DESTROYED WORK: With regard to damage or loss attributable to the acts or omissions of City or Others and not to Construction Manager, City may either (a) promptly remedy the damage or loss and assume affected warranty responsibilities, (b) accept the damage or loss, or (c) issue a Change Order to remedy the damage or loss. If Construction Manager incurs costs or is delayed due to such loss or damage, Construction Manager may seek an equitable adjustment in the GMP, estimated Cost of the Work, Construction Manager's Fee, Date of Substantial Completion or Date of Final Completion, and, if appropriate, the Compensation for Preconstruction Services under this Agreement. Any equitable adjustment shall be approved by all parties.
- ix. Taxes and Permits: Construction Manager shall give public authorities all notices required by law and shall obtain and pay for all necessary permits, licenses, and renewals pertaining to the Work. Construction Manager shall provide to City copies of all notices, permits, licenses, and renewals required under this Agreement.
 - 1. Construction Manager shall pay applicable taxes and permit fees associated with the entire project.
- x. DISCOUNTS: All discounts for prompt payment shall accrue to City. All trade discounts, rebates, and refunds, and all returns from sale of surplus materials and equipment, shall be credited to the Cost of the Work, or directly to the City after final payment.
- xi. City may occupy or use completed or partially completed portions of the Work when (a) the portion of the Work is designated in a Certificate of Substantial Completion, (b) appropriate insurer(s) consent to the occupancy or use, and (c) public authorities authorize the occupancy or use. Construction Manager shall not unreasonably withhold consent to partial occupancy or use.
- xii. JOINT DRAFTING: All Parties expressly agree that this Agreement was jointly drafted, and that both had opportunity to negotiate its terms and to obtain the assistance of counsel in reviewing its terms before execution. Therefore, this Agreement shall be construed neither against nor in favor of either Party but shall be construed in a neutral manner.

- xiii. **EXTENT OF AGREEMENT:** Except as expressly provided, this Agreement is for the exclusive benefit of all Parties, and not the benefit of any third party. This Agreement represents the entire and integrated agreement between the Parties, and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement and each and every provision is for the exclusive benefit of all Parties and not for the benefit of any third party.
- xiv. **ASSIGNMENT:** Except as to the assignment of proceeds, no Party shall assign their interest in this Agreement without the written consent of the other Party. The terms and conditions of this Agreement shall be binding upon all Parties, their partners, successors, assigns, and legal representatives. No Party shall assign the Agreement without written consent of the other.
- xv. Where figures are given, they shall be preferred to scaled dimensions.
- xvi. The drawings and specifications are complementary. If Work is shown only on one but not on the other, Construction Manager shall perform the Work as though fully described on both. CMAR shall seek clarification from Design Professional for any discrepancies.
- xvii. In case of conflicts between the drawings and specifications, the specifications shall govern. In any case of omissions or errors in figures, drawings, or specifications, Construction Manager shall immediately submit the matter to City and Design Professional for clarification. Design Professional's clarifications are final and binding.
- xviii. **DEBARMENT AND SUSPENSION:** By execution of this agreement, CMAR certifies that to the best of its knowledge and belief that the CMAR and its principals:
 - 1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
 - 2. Have not within a three year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - 3. Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (2) of this certification; and
 - 4. (d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.
 - 5. CMAR understands that a false statement on certification regarding debarment and suspension may be grounds for rejection of this proposal or termination of the award. In addition, under 18 USC Sec. 1001, a false statement may result in a fine. I further certify that I will obtain a similar certification for each subcontract awarded in excess of \$25,000.
 - 6. Certifications for subcontracts executed under this agreement shall include all language in this section.

5. Definitions:

- a. Unless otherwise specifically defined in this Agreement, any terms that have well-known technical or trade meanings shall be interpreted in accordance with their well-known meanings.
- b. "Business Day" means all Days, except weekends and official federal or state holidays where the Project is located.
- c. A "Change Order" is a written order signed by all Parties after execution of this Agreement, indicating changes in the scope of the Work, the GMP and Date of Substantial Completion or Date of Final Completion.
- d. "Contract Time" is the period between the Date of Notice to Proceed and the total time authorized to achieve Final Completion.
- e. "Cost of the Work" means the total costs and discounts charged to the City.
- f. The "Construction Manager at Risk" (CMAR or CM) is the person or entity identified in this contract and includes Construction Manager's Representative.
- g. "Day" means a calendar day unless otherwise specified.
- h. "Defective Work" is any portion of the Work that does not conform with the requirements of the Contract Documents.
- i. "Design Professional" means the licensed architect retained by the City and its subconsultants, to perform design services for the Project.
- j. "Final Completion" occurs on the date when CMAR's obligations under this Agreement are complete and accepted by City and final payment becomes due and payable. This date shall be confirmed by a Certificate of Final Completion signed by all Parties.
- k. "Hazardous Material" is any substance or material identified now or in the future as hazardous under the Law, or any other substance or material that may be considered hazardous or otherwise subject to statutory or regulatory requirement governing handling, disposal, or cleanup.
- l. "Interim Directive" is a written order containing change to the Work directed by and in consultation with City and Design Professional after execution of this Agreement and before Substantial Completion. Interim Directives shall be consolidated and formalized in a change order to be signed by all parties.
- m. "Law" means federal, state, or local laws, ordinances, codes, rules, and regulations applicable to the Work with which Construction Manager must comply that are enacted as of the Agreement date.
- n. "Others" means City's other: (a) contractors/constructors, (b) suppliers, (c) subcontractors, sub-subcontractors, or suppliers of (a) and (b); and others employed directly or indirectly by (a), (b), or (c) or any by any of them or for whose acts any of them may be liable.
- o. "Overhead" means (a) payroll costs, burden, and other compensation of CMAR's employees in CMAR's principal and branch offices for work associated with this project.
- p. "Owner" is the City of Fayetteville, Arkansas (City).
- q. The "Owner's Program" is an initial description of Owner's objectives, including budgetary and time criteria, space requirements and relationships, flexibility and expandability requirements, special equipment and systems, site requirements, and any requirements for phased occupancy.
- r. The "Parties" are collectively City and CMAR.

- s. The "Project," is the building, facility, or other improvements for which CMAR is to perform Work under this Agreement. It may also include construction by Owner or Others.
- t. The "Schedule of the Work" is the document prepared by CMAR that specifies the dates on which CMAR plans to begin and complete various parts of the Work, including dates on which information and approvals are required from City.
- u. "Subcontractor" is a person or entity retained by CMAR as an independent contractor to provide the labor, materials, equipment, or services necessary to complete a specific portion of the Work. The term Subcontractor does not include Design Professional or Others.
- v. "Substantial Completion" of the Work, or of a designated portion, occurs on the date when the Work is sufficiently complete in accordance with the Contract Documents so that City may occupy or utilize the Work, or a designated portion, for the use for which it is intended, without unapproved disruption. This date shall be confirmed by a certificate of Substantial Completion signed by all Parties.
- w. A "Sub-subcontractor" is a person or entity who has an agreement with a Subcontractor or another sub-subcontractor or Supplier to perform a portion of the Subcontractor's Work or supply material or equipment.
- x. A "Supplier" is a person or entity retained by CMAR to provide material or equipment for the Work.
- y. "Terrorism" means a violent act, or an act that is dangerous to human life, property, or infrastructure, that is committed by an individual or individuals and that appears to be part of an effort to coerce a civilian population or to influence the policy or affect the conduct of any government by coercion. Terrorism includes, but is not limited to, any act certified by the United States government as an act of terrorism pursuant to the Terrorism Risk Insurance Act, as amended.
- z. "Work" means the construction and administrative and management services necessary or incidental to fulfill Construction Manager's obligations for the Project in accordance with and reasonably inferable from the Contract Documents. The Work may refer to the whole Project or only a part of the Project if work is also being performed by Owner or Others.
- aa. "Worksite" means the area of the Project where the Work is to be performed.
- bb. "Bi-monthly basis" means every fourteen to sixteen calendar days.

6. Contract Document Review and Administration

- a. Before commencing the Work, Construction Manager shall examine and compare the drawings and specifications with information furnished by the City and Design Professional that are considered Contract Documents, relevant field measurements made by Construction Manager, and any visible conditions at the Worksite affecting the Work.
- b. Should Construction Manager discover any errors, omissions, or inconsistencies in the Contract Documents, Construction Manager shall promptly report them to the City and Design Professional. Following receipt of written notice from Construction Manager of defects, City shall promptly inform Construction Manager what action, if any, Construction Manager shall take with regard to the defect.
- c. Nothing in this section shall relieve CMAR of responsibility for its own errors, inconsistencies, or omissions.
- d. COST REPORTING: Construction Manager shall maintain complete, accurate, and current records that comply with generally accepted accounting principles and calculate the proper financial management under this Agreement. Construction Manager shall maintain a complete set of all books and records

prepared or used by Construction Manager with respect to the Project. City shall be afforded access to all of Construction Manager's records, books, correspondence, instructions, drawings, receipts, vouchers, memoranda, and similar data relating to this Agreement. Construction Manager shall preserve all such records for a period of three years after the final payment or longer where required by Law.

7. Warranty

- a. Construction Manager warrants all materials and equipment furnished under the Construction Phase of this Agreement will be new unless otherwise specified, of good quality, in conformance with the Contract Documents, and free from defective workmanship and materials. At City or Design Professional request, Construction Manager shall furnish satisfactory evidence of the quality and type of materials and equipment furnished. Construction Manager further warrants all Work shall be free from material defects not intrinsic in the design or materials required in the Contract Documents. Construction Manager's warranty does **not include** remedies for defects or damages caused by normal wear and tear during normal usage beyond the warranty period, use for a purpose for which the Project was not intended, improper or insufficient maintenance, modifications performed by the City or others, or abuse. Construction Manager's warranty shall commence on the Date of Final Completion of the Project.
- b. To the extent products, equipment, systems, or materials incorporated in the Work are specified and purchased by the City, they shall be covered exclusively by the warranty of the manufacturer. There are no warranties which extend beyond the description on the face of any such warranty. For such incorporated items, ALL OTHER WARRANTIES EXPRESSED OR IMPLIED INCLUDING THE WARRANTY OF MERCHANTABILITY AND THE WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE ARE EXPRESSLY DISCLAIMED.
- c. Construction Manager shall obtain from its Subcontractors and Suppliers any special or extended warranties required by the Contract Documents. Construction Manager's liability for such warranties shall be limited to the one-year correction period, as further defined in this Agreement. After that period Construction Manager shall provide full and comprehensive assistance to the City in enforcing the obligations of Subcontractors or Suppliers for such extended warranties.
- d. Correction of Work within Two Years
 - i. If before Substantial Completion or within two-years after the date of Final Completion of the Work any Defective Work is found, City shall promptly notify Construction Manager in writing. Unless City provides written acceptance of the condition, Construction Manager shall promptly correct the Defective Work at its own cost and time and bear the expense of additional services required for correction of any Defective Work for which it is responsible. If within the two-year correction period City discovers and does not promptly notify Construction Manager or give Construction Manager an opportunity to test or correct Defective Work as reasonably requested by Construction Manager, City waives Construction Manager's obligation to correct that Defective Work as well as City's right to claim a breach of the warranty with respect to that Defective Work.
 - ii. If Construction Manager fails to correct Defective Work within a reasonable time after receipt of written notice from City before final payment, City may correct it in accordance with Owner's right to carry out the Work. In such case, an appropriate Change Order shall be issued deducting the cost of correcting the Defective Work from payments then or thereafter due Construction Manager. If payments then or thereafter due Construction Manager are not sufficient to cover such amounts, Construction Manager shall pay the difference to City.

- iii. Construction Manager's obligations and liability, if any, with respect to any Defective Work discovered after the two-year correction period shall be determined by the Law. If, after the two-year correction period but before the applicable limitation period has expired, City discovers any Work which City considers Defective Work, City shall, unless the Defective Work requires emergency correction, promptly notify Construction Manager and allow Construction Manager an opportunity to correct the Work if Construction Manager elects to do so. If Construction Manager elects to correct the Work, it shall provide written notice of such intent within fourteen (14) Days of its receipt of notice from City and shall complete the correction of Work within a mutually agreed timeframe. If Construction Manager does not elect to correct the Work, City may have the Work corrected by itself or Others, and, if City intends to seek recovery of those costs from Construction Manager, City shall promptly provide Construction Manager with an accounting of the actual correction costs.
- iv. If Construction Manager's correction or removal of Defective Work causes damage to or destroys other completed or partially completed work or existing building, Construction Manager shall be responsible for the cost of correcting the destroyed or damaged property.
- v. The two-year period for correction of Defective Work does not constitute a limitation period with respect to the enforcement of Construction Manager's other obligations under the Contract Documents.
- vi. Before final payment, at City option and with Construction Manager's agreement, City may elect to accept Defective Work rather than require its removal and correction. In such cases the GMP shall be equitably adjusted for any diminution in the value, as determined by City, of the Project caused by such Defective Work.

8. Safety of Persons and Property

- a. SAFETY PROGRAMS: Construction Manager holds overall responsibility for safety programs. However, such obligation does not relieve Subcontractors of their safety responsibilities and to comply with the Law. Construction Manager shall prevent against injury, loss, or damage to persons or property by taking reasonable steps to protect: (a) its employees and other persons at the Worksite; (b) materials and equipment stored at onsite or offsite locations for use in performing the Work; and (c) property located at the Worksite and adjacent to work areas, whether or not the property is part of the Worksite.
- b. CONSTRUCTION MANAGER'S SAFETY REPRESENTATIVE: Construction Manager shall designate an individual at the Worksite in its employ as its safety representative. Unless otherwise identified by Construction Manager in writing to City, Construction Manager's project superintendent shall serve as its safety representative. Construction Manager shall report promptly in writing all recordable accidents and injuries occurring at the Worksite. When Construction Manager is required to file an accident report with a public authority, Construction Manager shall furnish a copy of the report to City.
- c. Construction Manager shall provide City with copies of all notices required of Construction Manager by the Law. Construction Manager's safety program shall comply with the requirements of governmental and quasi-governmental authorities having jurisdiction.
 - i. Damage or loss not insured under property insurance that may arise from the Work, to the extent caused by negligent or intentionally wrongful acts or omissions of Construction Manager, or anyone for whose acts Construction Manager may be liable, shall be promptly remedied by Construction Manager.

- d. If City deems any part of the Work or Worksite unsafe, City, without assuming responsibility for Construction Manager's safety program, may require Construction Manager to stop performance of the Work, take corrective measures satisfactory to City. If Construction Manager does not adopt corrective measures, City may perform them and deduct their cost from the GMP. Construction Manager agrees to make no claim for damages, or an increase in the GMP, or for a change in the Dates of Substantial or Final Completion based on Construction Manager's compliance with City's reasonable request.

9. Subcontracts:

- a. **BINDING OF SUBCONTRACTORS AND SUPPLIERS:** Construction Manager agrees to bind every Subcontractor and Supplier and require every Subcontractor to so bind its subcontractors and significant supplier, to the Contract Documents as they apply to the Subcontractor's or Supplier's applicable provisions to that portion of the Work.
- b. Construction Manager agrees not to subcontract construction manager at risk related services without prior written consent from the City.

10. Fees, Expenses, and Payments:

- a. The maximum not-to-exceed amount authorized for this agreement is included in the breakdown shown below. Fees shall be paid to the CMAR as described in Appendix B.
- b. **Phase 1: Pre-Construction Services**
 - i. The maximum not-to-exceed amount authorized for this phase is **\$38,950.00 USD**. Fees shall be paid to the CMAR from the City based Lump Sum basis as described in Appendix B.
- c. **Phase 2: Guaranteed Maximum Price (GMP)**
 - i. If this Agreement is executed before establishment of the Guaranteed Maximum Price and its acceptance by the City, then the GMP and its basis shall be set forth in a GMP Change Order.
 - ii. In the event all Parties agree the drawings and specifications are sufficiently complete after bids are received, Construction Manager shall prepare and submit to the City in writing a GMP. The GMP proposal shall include the cost of the Work, Construction Manager's Fee, the clarifications upon which it is based, but shall not include compensation for Preconstruction Services (Phase 1).
 - iii. **FAILURE TO ACCEPT THE GMP PROPOSAL:** Unless the City accepts the GMP Proposal in writing the GMP Proposal shall not be effective. If City fails to accept the GMP Proposal, or rejects the GMP Proposal, City shall have the right to:
 - 1. suggest modifications to the GMP Proposal
 - 2. terminate the Agreement for convenience
 - iv. **PRE-GMP WORK:** Before City acceptance of the GMP Proposal, Construction Manager shall not incur any cost to be reimbursed as part of the Cost of the Work, except as provided in this Agreement or as City may specifically authorize in advanced writing.
 - v. GMP shall include an itemized cost items from the CMAR, including but not limited to:
 - 1. Labor wages directly employed by Construction Manager in performing of the Work.
 - 2. Salaries of Construction Manager's employees when stationed at the field office, in whatever capacity employed, employees engaged on the road expediting the production

or transportation of material and equipment, and employees from the principal or branch office as mutually agreed by the Parties in writing.

3. Cost of all employee benefits and taxes, including but not limited to, workers' compensation, unemployment compensation, social security, health, welfare, retirement, and other fringe benefits as required by law, labor agreements, or paid under Construction Manager's standard personnel policy, insofar as such costs are paid to employees of Construction Manager who are included in the Cost of the Work.
4. Transportation, travel, hotel, and moving expenses of Construction Manager's personnel incurred in connection with the Work.
5. Cost of all materials, supplies, and equipment incorporated in the Work, including costs of inspection and testing if not provided by City, transportation, storage, and handling.
6. Payments made by Construction Manager to Subcontractors for work performed under this Agreement.
7. Cost, including transportation and maintenance of all materials, supplies, equipment, temporary facilities, and hand tools not owned by the workers that are used or consumed in the performance of the Work, less salvage value or residual value; and cost less salvage value on such items used, but not consumed that remain the property of Construction Manager.
8. Rental charges of all necessary machinery and equipment, exclusive of hand tools owned by workers, used at the Worksite, whether rented from Construction Manager or others, including installation, repair, and replacement, dismantling, removal, maintenance, transportation, and delivery costs at competitive market rates.
9. Cost of the premiums for all insurance and surety, performance or payment bonds which Construction Manager is required to procure or deems necessary and approved by City including any additional premium incurred as a result of any increase in the GMP at fixed rates approved by the City.
10. Sales, use, gross receipts, or other taxes, tariffs, or duties related to the Work for which Construction Manager is liable.
11. Permits, taxes, fees, licenses, tests, royalties.
12. Losses, expenses, or damages to the extent not compensated by insurance or otherwise, and the cost of corrective work during the Construction Phase and for the warranty period.
13. Costs associated with establishing, equipping, operating, maintaining, mobilizing and demobilizing the field office.
14. Water, power, and fuel costs necessary for the Work.
15. Cost of removal of all nonhazardous substances, debris, and waste materials
16. Costs incurred due to an emergency affecting the safety of persons or property.
17. Costs directly incurred in the performance of the Work or in connection with the Project, and not included in Construction Manager's Fee, which are reasonably inferable from the Contract Documents.

- d. Fees set for the construction of this project are intended to be executed upon agreement of all parties in a not to exceed form via change order. Due to the bond funding nature of this project, all parties agree payment to the CMAR shall be made as follows:
 - i. The City shall be responsible for a not to exceed cap.
 - ii. Final amounts shall be identified with a Change Order, pursuant to agreement of all parties of a Guaranteed Maximum Price.
- e. CMAR shall track, log and report expenses directly related to this Agreement along with invoice which shall include schedule of values for payment for each month. Invoices shall be itemized. Invoice and payment requests shall not exceed the percentage for work completed as defined.
- f. Payment Terms: All invoices are payable upon approval and due within thirty (30) calendar days. If a portion of an invoice or statement is disputed by CITY, the undisputed portion shall be paid. CITY OF FAYETTEVILLE shall advise CMAR in writing of the basis for any disputed portion of any invoice. CITY shall make reasonable effort to pay invoices within 30 calendar days of date the invoice is approved.
- g. STORED MATERIALS AND EQUIPMENT: Unless otherwise provided in the contract documents, applications for payment may include materials and equipment not yet incorporated into the Work but delivered to and suitably stored onsite or offsite including applicable insurance, storage, and costs incurred transporting the materials to an offsite storage facility. Approval of payment applications for stored materials and equipment stored offsite shall be conditioned on a submission by Construction Manager of bills of sale and proof of required insurance, or such other documentation satisfactory to City to establish the proper valuation of the stored materials and equipment, City's title to such materials and equipment, and to otherwise protect City's interests therein, including transportation to the Worksite. Materials and equipment stored offsite shall be in a bonded and insured secure facility.
- h. Monthly invoices for each calendar month shall be submitted to City or such parties as City may designate for professional services consistent with CMAR's normal billing schedule. Once established, the billing schedule shall be maintained throughout the duration of the Project. Invoices shall be made in accordance with a format to be developed by CMAR and approved by City. Applications for payment shall be accompanied each month by the updated project schedule as the basis for determining the value earned as the work is accomplished. Final payment for professional services shall be made upon CITY OF FAYETTEVILLE'S approval and acceptance with the satisfactory completion of professional services for the Project.
 - i. Retainage in the amount of five percent (5%) will be withheld from each payment until project final completion.
 - ii. Upon Substantial Completion, the City may release retainage on that portion of the Work a Subcontractor has completed in whole or in part, and which City have accepted.
- i. Final Payment: Upon satisfactory completion of the work performed under this Agreement, as a condition before final payment under this Agreement, or as a termination settlement under this Agreement, CMAR shall execute and deliver to CITY OF FAYETTEVILLE a release of all claims against CITY OF FAYETTEVILLE arising under or by virtue of this Agreement, except claims which are specifically exempted by CMAR to be set forth therein.
 - i. Unless otherwise provided in this Agreement or by State law or otherwise expressly agreed to by the parties to this Agreement, final payment under this Agreement or settlement upon termination of this Agreement shall not constitute a waiver of CITY OF FAYETTEVILLE's claims against CMAR or sureties under this Agreement.

11. Project Bonding: Performance and payment bonding. After execution of this contract by all parties, CMAR shall provide a 100% **separate** performance and payment bond from a bonding company, licensed to do business in the state of Arkansas, to the City of Fayetteville after being file marked at the Washington County Circuit Clerk's Office. Bonds shall be inclusive of any approved contingency. Bonds shall be provided within ten (10) calendar days after GMP change order has been executed and approved by all parties.

- a. Construction contracts for the project shall not be entered into between the CMAR and sub-contractor without a 100% payment and performance bond in the amount of the contract (including any approved contingency) and any amendments thereto and shall provide for the manner in which the construction shall be managed and supervised. Bonds shall be valid and exchanged between all parties prior to the start of work.
- b. A maintenance bond shall be provided for the duration of the entire warranty period.
- c. All bonds shall be listed with the U.S. Treasury Department listing of approved surety's (T-List) and shall be rated A+ minimum by A. M. Best.

12. Time:

- a. SUBSTANTIAL and FINAL COMPLETION: Date of Substantial Completion and the Date of Final Completion shall be established in a GMP Change Order to this Agreement (GMP) as a hard not to exceed date. If such dates are not established upon the execution of this Agreement, at such time as GMP is accepted a Date of Substantial Completion and Date of Final Completion of the Work shall be established in a GMP Change Order.
- b. Time is of the essence with regards to the obligations of the Contract Documents.
- c. Unless instructed by City in writing, Construction Manager shall not knowingly commence the Work before the effective date of Construction Manager's required insurance and bonds.
- d. Schedule of Work: Before submitting its first application for payment, Construction Manager shall submit to City and, if directed, Design Professional a Schedule of the Work showing the dates on which Construction Manager plans to begin and complete various parts of the Work, including dates on which information and approvals are required from City. Except as otherwise directed by City, Construction Manager shall comply with the approved Schedule of the Work or Construction Manager.
 - i. Unless otherwise agreed, the Schedule of the Work shall be formatted in a detailed precedence-style critical path method that (a) provides a graphic representation of all activities and events, including float values that will affect the critical path of the Work, and (b) identifies dates that are critical to ensure timely and orderly completion of the Work.
 - ii. Construction Manager shall update the Schedule of the Work on a bi-monthly basis or as mutually agreed by all Parties.
 - iii. City may determine the sequence in which the Work shall be performed, provided it does not unreasonably interfere with the approved project schedule. City may require Construction Manager to make reasonable changes in the sequence at any time during the performance of the Work in order to facilitate the performance of work by City or Others. If Construction Manager consequently incurs costs or is delayed, the GMP or the Dates of Substantial or Final Completion, or both, Construction Manager may seek equitable adjustment.
- e. NOTICE OF DELAY CLAIMS: If Construction Manager requests an equitable extension of the Contract Time or an equitable adjustment in the GMP as a result of a delay described, Construction Manager shall give

City written notice of the claim. If Construction Manager causes delay in the completion of the Work, City shall be entitled to recover its additional costs.

- f. **MONITORING PROGRESS AND COSTS:** Following acceptance by City of the GMP, Construction Manager shall establish a process for monitoring actual costs against the GMP and actual progress against the Schedule of Work. Construction Manager shall provide written reports to City at intervals as agreed to by all Parties on the status of the Work, showing variances between actual costs and the GMP and actual progress as compared to the Schedule of Work, including estimates of future costs and recovery programs if actual progress indicates that the Dates of Substantial Completion or Final Completion may not be met.

13. Determination of Contract Time:

- a. General.
 - i. The time allowed for the completion of the Work included in the Contract will be stated in the Proposal and Contract and will be known as the "Contract Time". The contract time will be specified as a fixed completion date or as **calendar days**.
 - ii. The CMAR shall take into consideration all normal conditions considered unfavorable to the normal progress of the Work and place a sufficient work force and equipment on the project to ensure completion of the Work within the contract time.
 - iii. The Engineer/City Engineer will determine the date upon which the Contract is substantially complete and time assessment will cease. In the event cleanup is necessary or items found at the final inspection are to be corrected, the CMAR shall complete this work in a timely manner, or the Engineer/City Engineer will resume time charges.
- b. Fixed Completion Date. When the contract time is specified as a fixed date, it will be the date on which all work on the project shall be substantially complete.
- c. Calendar Day. Calendar day contract time includes delays for normal weather-related events, such as rain, snow, and freezing temperatures that may affect the progress of the construction in the following amounts on a per-month basis as hereinafter set out. Only weather-related delays in excess of these amounts will be considered for time extensions, if requested by the CMAR. Days included in the Contract Times for Normal Weather-Related Events, on a monthly basis, include:

Month	Days
January	11
February	9
March	8
April	8
May	8
June	8
July	7
August	7
September	7
October	7
November	7
December	8

- i. No changes in contract times will be allowed for any reason without a request in writing from the CMAR. This request shall include reasons for the request with supporting documentation as proof of extraordinary delays beyond the CMAR's control. Normal rainfall amounts and soil conditions will not be considered as reasons for extensions of time, nor will workload of the Contractor. The

request must be submitted for to the Engineer/City Engineer within 5 days of the end of the month to be considered. No compensation will be made for monetary damages due to weather delay(s).

- d. Working Day. Working Day. Only when the contract time is specified in working days, the provisions of Section 109.08(d) shall apply.
 - i. Time will be assessed for each day on which, in the judgment of the Engineer/City Engineer and subject to the limitations below, conditions allow the Contractor to effectively utilize 60% of normal forces and equipment to prosecute the work required at that time, for at least 60% of the Contractor's normal working hours, regardless of whether the CMAR actually works.
 - ii. The Engineer/City Engineer will not assess a working day when conditions exist beyond the control and without the fault of the CMAR that prevent the utilization of forces and equipment as defined above. Also, for the purpose of assessment of working days, inaccessibility to a portion of the work due to utility conflict or utility work, either of which prevents utilization of forces and equipment as defined above, will be considered as an adverse working condition for the time exceeding that specified in the Contract for the utility adjustment. The ability of vendors, suppliers, and subcontractors to provide materials and/or services is considered within the CMAR's control for the purpose of assessment of working days. Time from December 21 through January 15, inclusive, will not be assessed against the contract time.
 - i. Saturdays and City recognized holidays, other than those designated above, which may be declared by the City for certain special or unusual circumstances, will be optional to the CMAR as working days, and time will not be assessed unless work is performed that requires inspection. If work is performed, contract time assessment will be based upon the same conditions as a normal working day.
 - ii. Contract time will not be assessed during a full suspension of the work as ordered by the Engineer/City Engineer. During a partial suspension of the work as ordered by the Engineer/City Engineer, the contract time will be assessed in direct proportion to the ratio of the money value of the items not suspended to the total contract amount.
 - iii. Each pay estimate will state the each working day charged during the preceding period and the total number of working days charged to date. If the CMAR disagrees with the working days charged by the Engineer/City Engineer, then the Contractor shall, within 10 calendar days of signing the pay estimate, give the Engineer/City Engineer written notice of such disagreement and the reasons, therefore. If the CMAR does not provide written notice within 10 calendar days of signing the pay estimate, no subsequent request for review will be considered.

14. Substantial Completion:

- a. Construction Manager shall notify City and, if directed, Design Professional when it considers Substantial Completion of the Work or a designated portion to have been achieved. City, with the assistance of its Design Professional, shall promptly conduct an inspection to determine whether the Work or designated portion can be occupied or used for its intended use by City without excessive interference in completing any remaining unfinished Work. If City determines the Work or designated portion has not reached Substantial Completion, City, with the assistance of its Design Professional, shall promptly compile a list of items to be completed or corrected so City may occupy or use the Work or designated portion for its intended use. Construction Manager shall promptly and accurately complete all items on the list.

- b. When Substantial Completion of the Work or a designated portion is achieved, Construction Manager shall prepare a Certificate of Substantial Completion establishing the date of Substantial Completion and the respective responsibilities of each Party for interim items such as security, maintenance, utilities, insurance, and damage to the Work, and fixing the time for completion of all items on the list accompanying the Certificate. The Certificate of Substantial Completion shall be submitted by Construction Manager to City and, if directed, to Design Professional for written acceptance of responsibilities assigned in the Certificate of Substantial Completion.
- c. Unless otherwise provided in the Certificate of Substantial Completion, warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or a designated portion.
- d. Upon City's written acceptance of the Certificate of Substantial Completion, City shall pay to Construction Manager the remaining retainage held by City for the Work described in the Certificate of Substantial Completion less a sum equal to one hundred and fifty percent (150%) of the estimated cost of completing or correcting remaining items on that part of the Work, as agreed to by the Parties as necessary to achieve Final Completion, including all close outs. Uncompleted items shall be completed by Construction Manager in a mutually agreed upon timeframe.

15. Final Completion:

- a. Upon notification from Construction Manager that the Work is complete and ready for final inspection and acceptance, City, with the assistance of its Design Professional shall promptly conduct an inspection to determine if the Work has been completed and is acceptable under the Contract Documents.
- b. When the Work is complete, Construction Manager shall prepare for City's written acceptance a final application for payment stating that to the best of Construction Manager's knowledge, and based on City's inspections, the Work has reached Final Completion in accordance with the Contract Documents.
- c. Final payment of the balance of the GMP shall be made to Construction Manager within thirty (30) Days after Construction Manager has submitted an application for final payment, pending the application has been approved by the City, including submissions required, and a Certificate of Final Completion has been executed by all Parties.
- d. Final payment shall be due on Construction Manager's submission of the following to the City:
 - i. an affidavit declaring any indebtedness connected with the Work, to have been paid, satisfied, or to be paid with the proceeds of final payment, so as not to encumber City property;
 - ii. as-built drawings, manuals, copies of warranties, and all other close-out documents required by the Contract Documents;
 - iii. release of any liens, conditioned on final payment being received;
 - iv. consent of any surety; and
 - v. any outstanding known and unreported accidents or injuries experienced by Construction Manager or its Subcontractors at the Worksite.
 - vi. If, after Substantial Completion of the Work, the Final Completion of a portion of the Work is materially delayed through no fault of Construction Manager. If approved by City, they shall pay the balance due for any portion of the Work fully completed and accepted. If the remaining contract balance for Work not fully completed and accepted is less than the retained amount before payment, Construction Manager shall submit to City and, if directed, Design Professional

the written consent of any surety to payment of the balance due for portions of the Work that are fully completed and accepted. Such payment shall not constitute a waiver of claims, but otherwise shall be governed by this section.

- vii. ACCEPTANCE OF FINAL PAYMENT: Unless Construction Manager provides written identification of unsettled claims with an application for final payment, its acceptance of final payment constitutes a waiver of such claims.
- e. CMAR shall ensure that the City of Fayetteville receives lien waivers from all material suppliers, subcontractors and sub-subcontractors and **before** work begins on the project. The contractor shall give written notice to the material suppliers, subcontractors and sub-subcontractors providing work on the project that states the following:
 - i. *'According to Arkansas law, it is understood that no liens can be filed against public property if valid and enforceable payment and performance bond is in place. Regarding this Project and Agreement, the valid and enforceable bonds are with (____ name of surety ____).'*
 - ii. CMAR shall direct its subcontractors to obtain a written receipt evidencing acknowledgment of this statement from sub-subcontractors.

16. Liquidated Damages:

- a. SUBSTANTIAL COMPLETION: Liquidated damages based on the Substantial Completion date, to be determined in a GMP Change Order, shall apply.
 - i. City will suffer damages which are difficult to determine and accurately specify if the Substantial Completion date, which may be amended by Change Order, is not attained. Construction Manager shall pay City seven hundred fifty US dollars (\$750.00 USD) per calendar day as liquidated damages and not as a penalty for each Day that Substantial Completion extends beyond the Substantial Completion date.

17. Notices:

- a. Any notice required to be given under this Agreement to either party to the other shall be sufficient if addressed and mailed, certified mail, postage paid, delivery, fax or e-mail (receipt confirmed), or overnight courier.

18. Jurisdiction:

- a. Legal jurisdiction to resolve any disputes shall be Arkansas with Arkansas law applying to the case.

19. Venue:

- a. Venue for all legal disputes shall be Washington County, Arkansas.

20. Freedom of Information Act:

- a. City of Fayetteville contracts and documents prepared while performing 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 CMAR shall 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 photo copying costs pursuant to the FOIA may be assessed for this compliance.

21. Changes in Scope or Price:

- a. 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.

22. Insurance:

- a. Before starting the Work and as a condition precedent to payment, Construction Manager shall procure and maintain in force Workers' Compensation Insurance, Employers' Liability Insurance, Business Automobile Liability Insurance, and Commercial General Liability Insurance ("CGL"). The CGL policy shall include coverage for liability arising from premises, operations, independent contractors, products-completed operations, personal injury and advertising injury, contractual liability, pollution coverage, and broad form property damage. Construction Manager shall maintain completed operations liability insurance for one year after Substantial Completion, or as required by the Contract Documents, whichever is longer. Construction Manager's Employers' Liability, Business Automobile Liability and CGL policies shall be written with at least the limits of liability presented in **Appendix E**.
- b. Employers' Liability, Business Automobile Liability, and CGL coverages required may be provided by a single policy for the full limits required or by a combination of underlying policies with the balance provided by excess or umbrella liability policies.
- c. Construction Manager shall maintain in effect all insurance coverage required with insurance companies lawfully authorized to do business in the jurisdiction in which the Project is located. If Construction Manager fails to obtain or maintain any insurance coverage required under this Agreement, City may purchase such coverage and charge the expense to Construction Manager or terminate this Agreement.
- d. To the extent commercially available to Construction Manager from its current insurance company, insurance policies required shall contain a provision that the insurance company or its designee shall give City written notice transmitted in paper and electronic format: (a) 30 Days before coverage is nonrenewed by the insurance company and (b) within 10 Business Days after cancelation of coverage by the insurance company. Before commencing the Work and upon renewal or replacement of the insurance policies, Construction Manager shall furnish City with certificates of insurance until one year after Substantial Completion or longer if required by the Contract Documents. In addition, if any insurance policy required is not to be immediately replaced without lapse in coverage when it expires, exhausts its limits, or is to be cancelled, Construction Manager shall give City prompt written notice upon actual or constructive knowledge of such condition.
- e. Certificates of Insurance shall list the City as Additional Insured Parties.
- f. **PROPERTY INSURANCE:**
 - i. At no time shall any policy be covered by self-insurance or in a self-insured format. All policies shall be covered by an approved commercial insurance professional properly licensed to do business in Arkansas.
 - ii. Unless otherwise directed in writing by City, before starting the Work, CMAR shall obtain and maintain a Builder's Risk Policy upon the entire Project for the full cost of replacement at the time of loss, including existing structures. This insurance shall also (a) name Construction Manager, Subcontractors, Subsubcontractors, and Design Professional as named insureds; (b) be written in such form to cover all risks of physical loss except those specifically excluded by the policy; and (c) insure at least against and **not** exclude:

1. the perils of fire, lightning, explosion, windstorm, hail, smoke, aircraft (except aircraft, including helicopter, operated by or on behalf of Construction Manager) and vehicles, riot and civil commotion, theft, vandalism, malicious mischief, debris removal, flood, earthquake, earth movement, water damage, wind damage, testing if applicable, collapse, however caused;
 2. damage resulting from defective design, workmanship, or material;
 3. coverage extension for damage to existing buildings, plant, or other structures at the Worksite, when the Project is contained within or attached to such existing buildings, plant or structures. Coverage shall be to the extent loss or damage arises out of Constructor's activities or operations at the Project;
 4. equipment breakdown, including mechanical breakdown, electrical injury to electrical devices, explosion of steam equipment, and damage to steam equipment caused by a condition within the equipment;
 5. testing coverage for running newly installed machinery and equipment at or beyond the specified limits of their capacity to determine whether they are fit for their intended use; and
 6. physical loss resulting from Terrorism.
- iii. The Party that is the primary cause of a Builder's Risk Policy claim shall be responsible for any deductible amounts or coinsurance payments. If no Party is the primary cause of a claim, then the Party obtaining and maintaining the Builder's Risk Policy shall be responsible for the deductible amounts or coinsurance payments. This policy shall provide for a waiver of subrogation. This insurance shall remain in effect until final payment has been made or until no person or entity other than City has an insurable interest in the property to be covered by this insurance, whichever is sooner. Partial occupancy or use of the Work shall not commence until City has secured the consent of the insurance company or companies providing the coverage required in this subsection. Before commencing the Work, City shall provide a copy of the property policy or policies obtained.
 - iv. If City elects to purchase the property insurance required by this Agreement, including all of the coverages and deductibles for the same durations specified, City shall give written notice to Construction Manager before the Work is commenced and provide a copy of the property policy or policies obtained in compliance with this agreement. City may then provide insurance to protect its interests and the interests of the Constructor, Subcontractors, Suppliers, and Subsubcontractors. The cost of this insurance shall be paid by City in a Change Order. If City gives written notice of its intent to purchase property insurance required by this Agreement and fails to purchase or maintain such insurance, City shall be responsible for costs reasonably attributed to such failure.
 - v. The Parties each waive all rights against each other and their respective employees, agents, contractors, subcontractors, suppliers, sub-subcontractors, and design professionals for damages caused by risks covered by the property insurance, except such rights as they may have to the proceeds of the insurance.
 1. To the extent of the limits of Construction Manager's Commercial General Liability Insurance, Construction Manager shall indemnify and hold harmless City against any and all liability, claims, demands, damages, losses, and expenses, including attorneys' fees, in connection with or arising out of any damage or alleged damage to any of City's existing

adjacent property, including personal property, that may arise from the performance of the Work, to the extent caused by the negligent or intentionally wrongful acts or omissions of Construction Manager, Subcontractor, Supplier, Sub-subcontractor, or anyone employed directly or indirectly by any of them or by anyone for whose acts any of them may be liable.

- g. RISK OF LOSS: Except to the extent a loss is covered by applicable insurance, risk of loss from damage to the Work shall be upon the Party obtaining and maintaining the Builder's Risk until the Date of Final Completion.
- h. ADDITIONAL GENERAL LIABILITY COVERAGE: City shall require Construction Manager to purchase and maintain additional liability coverage. Construction Manager shall provide:
 - i. Additional Insured. City shall be named as an additional insured on Construction Manager's Commercial General Liability (CGL) specified, for on-going operations and completed operations, excess/umbrella liability, commercial automobile liability, and any required pollution liability, but only with respect to liability for bodily injury, property damage, or personal and advertising injury to the extent caused by the negligent acts or omissions of Construction Manager, or those acting on Construction Manager's behalf, in the performance of Construction Manager's work for Owner at the Worksite. The insurance of the Construction Manager and its Subcontractors (both primary and excess) shall be primary to any insurance available to the Additional Insureds. Any insurance available to the Additional Insureds shall be excess and non-contributory.
 - ii. OCP. Construction Manager shall provide an Owners' and Contractors' Protective Liability Insurance ("OCP") policy with limits equal to the limits on CGL specified, or limits as otherwise required by Owner.
- i. Any documented additional cost in the form of a surcharge associated with procuring the additional liability coverage in accordance with this subsection shall be paid by CMAR. Before commencing the Work, Construction Manager shall provide either a copy of the OCP policy, or a certificate and endorsement evidencing that City has been named as an additional insured, as applicable.
 - i. ROYALTIES, PATENTS, AND COPYRIGHTS: Construction Manager shall pay all royalties and license fees , unless otherwise specified in the Contract Documents, which may be due on the inclusion of any patented or copyrighted materials, methods, or systems selected by Construction Manager and incorporated in the Work. Construction Manager shall defend, indemnify, and hold City harmless from all suits or claims for infringement of any patent rights or copyrights arising out of such selection unless such design, process or product of a particular manufacturer or manufacturers is required by the Contract Documents, or where the copyright violations are contained in documents prepared by the Owner.
- j. PROFESSIONAL LIABILITY INSURANCE: To the extent Construction Manager is required to procure design services, Construction Manager shall require its design professionals to obtain a commercial professional liability insurance for claims arising from the negligent performance of professional services under this Agreement, with a company reasonably satisfactory to City, including coverage for all professional liability caused by any consultants to Construction Manager's design professional, written for not less than one million US dollars (\$1,000,000) per claim and in the aggregate. Construction Manager's design professional shall pay the deductible. The Professional Liability Insurance shall contain a retroactive date providing prior acts coverage sufficient to cover all Services performed by the Constructor's design professional for this Project. Coverage shall be continued in effect for the entire warranty period.

23. Professional Responsibility:

- a. CMAR will exercise reasonable skill, care, and diligence in the performance of services and will carry out its responsibilities in accordance with customarily accepted professional practices. CITY OF FAYETTEVILLE will promptly report to CMAR any defects or suspected defects in services of which CITY OF FAYETTEVILLE becomes aware, so CMAR can take measures to minimize the consequences of such a defect. CITY OF FAYETTEVILLE retains all remedies to recover for its damages caused by any negligence of CMAR.

24. Responsibility of the City of Fayetteville

- a. CITY OF FAYETTEVILLE shall, within a reasonable time, so as not to delay the services of CMAR:
 - i. Provide full information as to the requirements for the Project.
 - ii. Assist CMAR by placing at CMAR's disposal all available information pertinent to the assignment including previous reports and any other data relative thereto.
 - iii. Assist CMAR in obtaining access to property reasonably necessary for CMAR to perform its services.
 - iv. Examine all studies, reports, sketches, cost opinions, proposals, and other documents presented by CMAR and render in writing decisions pertaining thereto.
 - v. Review all documents and provide written comments to CMAR in a timely manner.
 - vi. The City of Fayetteville Bond Projects & Construction Manager, or their designee, is the project representatives with respect to the services to be performed under this Agreement. The Bond Projects & Construction Manager shall have complete authority to transmit instructions, receive information, interpret and define policies and decisions with respect to materials, equipment, elements and systems to be used in the Project, and other matters pertinent to the services covered by this Agreement.

25. Cost Opinions and Projections:

- a. Cost opinions and projections prepared by the CMAR relating to construction costs and schedules, operation and maintenance costs, equipment characteristics and performance, cost estimating, and operating results are based on CMAR's experience, qualifications, and judgment as a CMAR professional.

26. Period of Service: This Agreement will become effective upon the first written notice by CITY OF FAYETTEVILLE authorizing services hereunder.

- a. The provisions of this Agreement have been agreed to in anticipation of the orderly progress of the Project through completion of the services stated in the Agreement. CMAR shall proceed with providing the authorized services immediately upon receipt of written authorization from CITY OF FAYETTEVILLE. Said authorization shall include the scope of the services authorized and the time in which the services are to be completed. The anticipated schedule for this project is included with **Appendix B**.

27. Termination:

- a. This Agreement may be terminated in whole or in part in writing by either party in the event of substantial failure by the other party to fulfill its obligations under this Agreement through no fault of the terminating party, provided that no termination may be effected unless the other party is given:

- i. Not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate,
 - ii. An opportunity for consultation with the terminating party prior to termination.
- b. This Agreement may be terminated in whole or in part in writing by CITY OF FAYETTEVILLE for its convenience, provided that CMAR is given:
 - i. Not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate,
 - ii. An opportunity for consultation with the terminating party prior to termination.
- c. If termination for default is affected by CITY OF FAYETTEVILLE, an equitable adjustment in the price provided for in this Agreement shall be made, but
 - i. No amount shall be allowed for anticipated profit on unperformed services or other work,
 - ii. Any payment due to CMAR at the time of termination may be adjusted to cover any additional costs to CITY OF FAYETTEVILLE because of CMAR's default.
- d. If termination for default is affected by CMAR, or if termination for convenience is affected by CITY OF FAYETTEVILLE, the equitable adjustment shall include a reasonable profit for services or other work performed. The equitable adjustment for any termination shall provide for payment to CMAR for services rendered and expenses incurred prior to the termination, in addition to termination settlement costs reasonably incurred by CMAR relating to commitments which had become firm prior to the termination.
- e. Upon receipt of a termination action under Paragraphs above, CMAR shall:
 - i. Promptly discontinue all affected work (unless the notice directs otherwise),
 - ii. Deliver or otherwise make available to CITY OF FAYETTEVILLE all data, drawings, specifications, reports, estimates, summaries and such other information and materials as may have been accumulated by CMAR in performing this Agreement, whether completed or in process.
- f. Upon termination under sections above CITY OF FAYETTEVILLE may take over the work and may award another party an agreement to complete the work under this Agreement.
- g. If, after termination for failure of CMAR to fulfill contractual obligations, it is determined that CMAR had not failed to fulfill contractual obligations, the termination shall be deemed to have been for the convenience of CITY OF FAYETTEVILLE. In such event, adjustments of the agreement price shall be made as provided in this agreement.

28. Delays

- a. In the event the services of CMAR are suspended or delayed by CITY OF FAYETTEVILLE, or by other events beyond CMAR's reasonable control, CMAR shall be entitled to additional compensation and time for reasonable documented costs incurred by CMAR in temporarily closing down or delaying the Project.
- b. In the event the services are suspended or delayed by CMAR, CITY shall be entitled to compensation and time for reasonable costs incurred in temporarily closing down or delaying the Project.

29. Rights and Benefits

- a. CMAR's services shall be performed solely for the benefit of CITY OF FAYETTEVILLE and not for the benefit of any other persons or entities.

30. Dispute Resolution

- a. Scope of Paragraph: The procedures of this Paragraph shall apply to any and all disputes between CITY OF FAYETTEVILLE and CMAR which arise from, or in any way are related to, this Agreement, including, but not limited to the interpretation of this Agreement, the enforcement of its terms, any acts, errors, or omissions of CITY OF FAYETTEVILLE or CMAR in the performance of this Agreement, and disputes concerning payment.
- b. Exhaustion of Remedies Required: No action may be filed unless the parties first negotiate. If timely Notice is given as described in this agreement, but an action is initiated prior to exhaustion of these procedures, such action shall be stayed, upon application by either party to a court of proper jurisdiction, until the procedures in this agreement have been complied with.
- c. Notice of Dispute
 - i. For disputes arising prior to the making of final payment promptly after the occurrence of any incident, action, or failure to act upon which a claim is based, the party seeking relief shall serve the other party with a written Notice.
 - ii. For disputes arising within one year after the making of final payment, CITY OF FAYETTEVILLE shall give CMAR written Notice at the address listed in this agreement within thirty (30) calendar days after occurrence of any incident, accident, or first observance of defect or damage. In both instances, the Notice shall specify the nature and amount of relief sought, the reason relief should be granted, and the appropriate portions of this Agreement that authorize the relief requested.
 - iii. Negotiation: Within seven (7) calendar days of receipt of the Notice, the Project Managers for CITY OF FAYETTEVILLE and CMAR shall confer in an effort to resolve the dispute. If the dispute cannot be resolved at that level, then, upon written request of either side, the matter shall be referred to the President of CMAR, and the Mayor of CITY OF FAYETTEVILLE or his or her designee. These officers shall meet at the Project Site or such other location as is agreed upon within 30 calendar days of the written request to resolve the dispute.

31. Sufficient Funds:

- a. The CITY represents to have sufficient funds or the means of obtaining funds to remit payment to CMAR for services rendered by CMAR. All parties agree if funding should become insufficient to complete the project, CMAR shall be notified in a timely manner.

32. Publications:

- a. Recognizing the importance of professional services on the part of CMAR's employees and the importance of CMAR's public relations, CMAR may prepare publications, such as technical papers, articles for periodicals, promotional materials, and press releases, in electronic or other format, pertaining to CMAR's services for the Project. Such publications will be provided to CITY OF FAYETTEVILLE in draft form for CITY OF FAYETTEVILLE's advance review. CITY OF FAYETTEVILLE shall review such drafts promptly and provide CITY OF FAYETTEVILLE's comments to CMAR, CITY OF FAYETTEVILLE may require deletion of proprietary data or confidential information from such publications, but otherwise CITY OF FAYETTEVILLE will not unreasonably withhold approval. Approved materials may be used in a variety of situations and do not require additional review or approval for each use. The cost of CMAR's activities pertaining to any such publication shall be for CMAR's account.

33. Indemnification:

- a. To the fullest extent permitted by law, the CMAR shall indemnify and hold harmless the City from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death or injury to or destruction of tangible property (other than the Work itself) but only to the extent caused by the negligent acts or omissions of the CMAR, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Agreement.

34. Ownership of Documents:

- a. All documents provided by CITY OF FAYETTEVILLE including original drawings, CAD drawings, estimates, field notes, and project data are and remain the property of CITY OF FAYETTEVILLE. CMAR may retain reproduced copies of drawings and copies of other documents.
- b. Engineering and architectural documents, computer models, drawings, specifications and other hard copy or electronic media prepared by CMAR as part of the Services shall become the property of CITY OF FAYETTEVILLE when CMAR has been compensated for all Services rendered, provided, however, that CMAR shall have the unrestricted right to their use. CMAR shall, however, retain its rights in its standard drawings details, specifications, databases, computer software, and other proprietary property. Rights to intellectual property developed, utilized, or modified in the performance of the Services shall remain the property of CMAR.
- c. Any files delivered in electronic medium may not work on systems and software different than those with which they were originally produced. CMAR makes no warranty as to the compatibility of these files with any other system or software. Because of the potential degradation of electronic medium over time, in the event of a conflict between the sealed original drawings/hard copies and the electronic files, the sealed drawings/hard copies will govern.

35. Additional Responsibilities of CMAR:

- a. Review, approval, or acceptance of design drawings, specifications, reports and other services furnished hereunder by CITY shall not in any way relieve CMAR of responsibility for the technical adequacy of the work. Review, approval or acceptance of, or payment for any of the services by CITY shall not be construed as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.
- b. CMAR shall be and shall remain liable, in accordance with applicable law, for all damages to CITY OF FAYETTEVILLE caused by CMAR's negligent performance, except beyond the CMAR's normal standard of care, of any of the services furnished under this Agreement, and except for errors, omissions or other deficiencies to the extent attributable to CITY OF FAYETTEVILLE or CITY OF FAYETTEVILLE-furnished data.
- c. CMAR's obligations under this clause are in addition to CMAR's other express or implied assurances under this Agreement or State law and in no way diminish any other rights that CITY OF FAYETTEVILLE may have against CMAR for faulty materials, equipment, or work.

36. Audit and Access to Records:

- a. CMAR shall maintain books, records, documents and other evidence directly pertinent to performance on work under this Agreement in accordance with generally accepted accounting principles and practices consistently applied in effect on the date of execution of this Agreement.
- b. CMAR shall also maintain the financial information and data used by CMAR in the preparation of support of the cost submission required for any negotiated agreement or change order and send to CITY OF FAYETTEVILLE a copy of the cost summary submitted. CITY OF FAYETTEVILLE, the State or any of their authorized representatives shall have access to all such books, records, documents and other evidence for the purpose of inspection, audit and copying during normal business hours. CMAR will provide proper facilities for such access and inspection.
- c. Records shall be maintained and made available during performance on assisted work under this Agreement and until three years from the date of final payment for the project. In addition, those records which relate to any controversy arising out of such performance, 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.
- d. This right of access clause (with respect to financial records) applies to:
 - i. Negotiated prime agreements
 - ii. Negotiated change orders or agreement amendments affecting the price of any formally advertised, competitively awarded, fixed price agreement
 - iii. Agreements or purchase orders under any agreement other than a formally advertised, competitively awarded, fixed price agreement. However, this right of access does not apply to a prime agreement, lower tier sub agreement or purchase order awarded after effective price competition, except:
 - 1. With respect to record pertaining directly to sub agreement performance, excluding any financial records of CMAR;
 - 2. If there is any indication that fraud, collusion, gross abuse or corrupt practices may be involved;
 - 3. If the sub agreement is terminated for default or for convenience.

37. Covenant Against Contingent Fees:

- a. CMAR warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement of understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by CMAR for the purpose of securing business. For breach or violation of this warranty, CITY OF FAYETTEVILLE shall have the right to annul this Agreement without liability or at its discretion, to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

38. Gratuities:

- a. If CITY OF FAYETTEVILLE finds after a notice and hearing that CMAR or any of CMAR agents or representatives, offered or gave gratuities (in the form of entertainment, gifts or otherwise) to any official, employee or agent of CITY OF FAYETTEVILLE or related third party contractor associated with this

project, in an attempt to secure an agreement or favorable treatment in awarding, amending or making any determinations related to the performance of this Agreement, CITY OF FAYETTEVILLE may, by written notice to CMAR terminate this Agreement. CITY OF FAYETTEVILLE may also pursue other rights and remedies that the law or this Agreement provides. However, the existence of the facts on which CITY OF FAYETTEVILLE bases such finding shall be in issue and may be reviewed in proceedings under the Remedies clause of this Agreement.

- b. The CITY may pursue the same remedies against CMAR as it could pursue in the event of a breach of the Agreement by CMAR. As a penalty, in addition to any other damages to which it may be entitled by law, CITY OF FAYETTEVILLE may pursue exemplary damages in an amount, as determined by CITY, which shall be not less than three nor more than ten times the costs CMAR incurs in providing any such gratuities to any such officer or employee.

IN WITNESS WHEREOF, **CITY OF FAYETTEVILLE, ARKANSAS** by and through its Mayor, and **Crossland Heavy Contractors, Inc.** by its authorized officer have made and executed this Agreement as of the day and year first above written.

CITY OF FAYETTEVILLE, ARKANSAS

By: _____

Lioneld Jordan, Mayor

ATTEST:

By: _____

Kara Paxton, City Clerk

Date Signed: _____

CROSSLAND HEAVY CONTRACTORS, INC.

Dan Thompson

Digitally signed by Dan Thompson
DN: C=US, E=dthompson@heavycontractors,
O=Crossland Heavy Contractors, OU=CHC,
CN=Dan Thompson
Reason: I am approving this document
Date: 2023.03.14 13:43:18-05'00'

By: _____

Signature

Daniel A. Thompson Vice President

By: _____

Printed Name and Title

Date Signed: _____

APPENDIX A – SCOPE OF WORK
for
**CONTRACT FOR PROFESSIONAL SERVICES –
CONSTRUCTION MANAGER AT RISK**

RFQ 23-02, CMAR – Lake Fayetteville Ballfield Renovations

1. PROJECT SUMMARY

Crossland Heavy Contractors, Inc. shall provide construction management at risk (CMAR) services for the Lake Fayetteville Softball Renovation Project. The project includes storm drainage, fencing & related field infrastructure, natural & synthetic turf, irrigation & pump system, athletic field & parking lot lighting, and sidewalk & parking improvements.

A. Storm Drainage

- i. Enhance and/or replace the existing storm drainage to accommodate runoff from field and parking areas.
- ii. Grade fields and/or install in field drainage system to provide controlled drainage from field surface.
- iii. Provide drainage system under synthetic turf infield that connects to storm drain.

B. Fencing & Related Field Infrastructure

- i. Replace existing chain link fencing with poly-coated chain link with a mow strip.
- ii. Provide backstop fencing and netting combination, bleachers, and bleacher covers for safety of spectators.
- iii. Provide covered chain link dugouts and team benches.
- iv. Provide batting cage system with netting and turf covered concrete pad.
- v. Provide foul poles, scoreboard, and field signage.

C. Natural & Synthetic Turf

- i. Certified hybrid Bermuda grass sod in outfield.
- ii. Synthetic turf infield with multiple base settings to accommodate multiple uses.

D. Irrigation & Pump System

- i. Provide new irrigation to outfield turf.
- ii. Provide upgraded irrigation pump system to utilize lake water.

E. Athletic Field & Parking Lot Lighting

- i. Relocate athletic field lighting poles as necessary.
- ii. Add lighting for batting cages.
- iii. Add security lighting for complex and parking lot.

F. Sidewalk & Parking Improvements

- i. Provide concrete ADA sidewalks and concourse as needed.

- ii. Provide ADA parking spaces as needed and improve parking lot layout with tree islands.
- iii. Improve dumpster pad and approach.
- iv. Improve hard surface use areas as needed.

2. SCOPE OF WORK

A. **Overview:** Phases to be completed are identified below with associated scope of work. Scope of work is not limited to any additional industry standard scope of work necessary to complete each phase. **Crossland Heavy Contractors, Inc. shall coordinate with the design team composed of Crafton Tull & Associates Inc. and the City of Fayetteville in order to achieve best value for the overall success of the project, including working to achieve maximum cost savings. Coordination with design team is critical for all phases.**

B. **PHASE 1: Design Development and Construction Drawings from the current plans to final plans**

i. **Construction Documents Phase**

1. Review Construction Documents/Plans and Specifications. Crafton Tull & Associates will submit construction document sets to the design team and the Construction Manager, and electronic versions as necessary, for review, cost analysis and approval. (100% plan review).
2. Attend follow up meetings with the design team.
3. Provide guidance to Crafton Tull & Associates to find efficient solutions to the plans to reflect issues noted the design team, inclusive of any necessary redesign prompted from the permit process.
4. Construction Documents/Plans, Specifications and Project Drawings shall be routed through the City of Fayetteville for required approvals.
5. Assist Crafton Tull & Associates in responding in writing to all Design Team comments on plans.
6. Assist Crafton Tull & Associates and the City with the bid form and identify all separate trade packages.
7. Facilitate with Crafton Tull & Associates and the Design Team in conducting cost-benefit analyses to understand construction costs, life-cycle cost impacts and long-term maintenance costs.
8. Coordinate with the design team to create plans for closure and detour of both pedestrian and street zones based on construction phasing.

ii. **Bid Phase**

1. Coordinate with City Purchasing Division to ensure all procedures followed for this phase meet state laws and City of Fayetteville Purchasing Policies.
2. Provide services for reproduction and dissemination of bid sets (project manual and stamped drawings) to the City Design Team [PM (1), Purchasing (1) and interested bidders]. Documents should be made available to any interested party electronically at no cost.
3. Provide distribution of plans to all interested parties.
 - a. Maintain open communication with the City of Fayetteville Purchasing Division throughout the bidding process.
 - b. Distribution of all documents shall be done in a fair and unbiased manner while keeping all interested parties on equal terms.

- c. Document and keep an updated accurate record of plan holder's and provide updated listings to all interested parties in a timely manner.
 - d. Answers to questions and inquiries shall be made in the form of an addendum and shall be provided to all interested parties at the same time.
- 4. Coordinate with City Purchasing Division during pre-bid meeting and facilitating a public bid opening.
- 5. Maintain open communication with the City Purchasing Division during any process involving Request for Information (RFI).
- 6. Bidders, interested parties, and plan holders shall receive all information included in addenda at the time addenda is issued.
- 7. In the event the CMAR desires to self-perform a portion of the work or a trade package, the CMAR shall submit a bid package in the same time and manner as other interested parties.
- 8. A public bid opening shall be held at the CMAR's advertised location at a time and date communicated with the City Purchasing Division.
- 9. Design of all Bid Proposals.
- 10. CMAR to provide City with Recommendation of Award Letter that includes the following required content (and assist with):
 - a. Check for math errors and reconcile any mathematical discrepancies,
 - b. Review for unbalance bid items,
 - c. Coordinate with the City Purchasing Division in finalizing a Certified Bid Tabulation including Engineer's estimate,
 - d. Review of contractor's financial standing and references provided,
 - e. Explanation of discrepancies between the Engineer's estimate and bids, and
 - f. Meet with the City to provide a formal written recommendation of award.
- 11. Attend City Council meeting(s) for the recommendation for award of Contract(s) for Construction.
 - a. CMAR shall provide with each recommendation for award, a signed affidavit which states the CMAR agrees that all Arkansas state procurement laws and City Purchasing policies have been followed and performed.

C. Phase 2: Guaranteed Maximum Price and Construction Administration Phase

i. Construction Administration Phase

- 1. Put forth diligent and fiscally responsible efforts to ensure the project will be completed on time and within budget.
- 2. Attend Pre-Construction meeting and conduct regular update meetings as jointly determined by the Design Team and contracted construction companies.
- 3. Coordinate with Crafton Tull & Associates and the Design Team on all Request for Change Proposals, Change Orders, etc. including maintaining a log of all such documents.
- 4. The City of Fayetteville intends to provide regular construction administration services. Crafton Tull & Associates will provide field services, progress meetings, and progress payment review and assistance on a bi-monthly basis.

5. Review site visit report from the Crafton Tull & Associates, and City of Fayetteville staff team at least twice (2) per month.
6. Coordinate with the Design Team to conduct Substantial Completion Inspection, coordinate with architect to create punch list, substantiate that items noted are completed, and issue Substantial Completion Certificate.
7. The Design Team shall be notified to attend all on-site meetings, review and approve all pay requests, and change order review prior to Mayor's approval.
8. Coordinate with the design team to create plans for closure and detour of both pedestrian and street zones based on construction phasing.

ii. **Project Close Out**

1. Provide Warranty Services during the entire Warranty Period. Crafton Tull & Associates to issue Warranty Reports and review items after the CM has notified the City that these items are complete.
2. Provide support services as needed during the project close out process.
3. Provide close out submittal to Crafton Tull & Associates for completeness before transmitting to the City which include but are not limited to:
 - a. Contractor's red lines and as-built notes
 - b. Provide as-built record drawings noting any changes to the plans prepared by Crafton Tull & Associates (in hard copy and digital format)
 - c. Produce a project narrative that provides a comprehensive review of the construction activities for the project with a project narrative submitted for City approval at the completion of each contract phase

CROSSLAND

HEAVY CONTRACTORS

March 13, 2023

Amanda Beilfuss
Senior Purchasing Agent
City of Fayetteville, AR

RE: – Lake Fayetteville Ballpark 23-02 - CMAR Preconstruction Services Fee Proposal

Ms. Beilfuss,

Crossland Heavy Contractors is pleased to present to you our Preconstruction phase services fee proposal for the above referenced project.

- The Preconstruction Phase Services shall be a not-to-exceed lump sum of \$38,950.00. This includes an amount of \$28,950.00 for the Phase 1 Services Scope of Work. An additional allowance of \$10,000.00 for potholing with a Hydro—Excavator for up to 40 hours has been included.
- The Construction Manager fee shall be 6.0%.
- The Fee for Preconstruction phase services shall be invoiced as follows:
 - 50% upon completion of Phase - Construction Documents Phase
 - 50% upon completion of Phase - Bid Phase
- Personnel Billing Rates are as follows:

i.	Project Principal	\$125.00/hr
ii.	Superintendent/Construction Manager	\$105.00/hr
iii.	Design Manager	\$115.00/hr
iv.	CM Project Manager	\$110.00/hr
v.	Pre-Construction Manager	\$110.00/hr
vi.	Lead Project Estimator	\$90.00/hr
vii.	Procurement Manager	\$85.00/hr
viii.	Safety Director	\$85.00/hr
ix.	Assistant Superintendent	\$85.00/hr
x.	Office Engineer	\$75.00/hr
xi.	Estimator	\$75.00/hr
xii.	Field Engineer	\$75.00/hr
xiii.	Admin	\$55.00/hr
xiv.	Operated Hydro-Excavator	\$250.00/hr (4-hour min.)

Please call or email with questions or concerns.

Respectfully,



Garrett Street
Pre-Construction Manager
Cell: 620-202-1834
gstreet@heavycontractors.com



City of Fayetteville, AR
Purchasing Division, Room 306
113 W. Mountain Street
Fayetteville, AR 72701
Phone: 479-575-8256
TDD (Telecommunication Device for the Deaf): 479.521.1316

RFQ (REQUEST FOR QUALIFICATIONS)

RFQ 23-02, CMAR for Lake Fayetteville Ballfield Renovations

DEADLINE: Thursday, February 16, 2023 prior to 2:00:00 PM, local time

PRE-PROPOSAL CONFERENCE: Thursday, February 2, 2023 at 2:00 PM on-site at Lake Fayetteville Park, 1153 Lake Fayetteville Rd., Fayetteville, AR 72764

DELIVERY LOCATION: Electronic via the City's Online Bidding Portal

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

DATE OF ISSUE AND ADVERTISEMENT: 01/22/23, 01/23/23 & 01/24/23

Late qualifications will not be accepted.

Request for Qualifications (RFQ's) shall be submitted in accordance with the attached City of Fayetteville specifications and RFQ 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. Any statement of qualification will be rejected that violates or conflicts with state, local, or federal laws, ordinances, or policies.

All RFQ's shall be submitted electronically via the City's Online Bidding Portal at <http://fayetteville-ar.gov/bids>. Physical submittals are not allowed for this RFQ.

The proposer hereby offers to furnish & deliver the articles or services as specified, at the terms stated herein, and in strict accordance with the specifications and general conditions of submitting, 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 Division.

City of Fayetteville, Arkansas
Request for Statements of Qualification
RFQ 23-02, Construction Manager at Risk (CMAR) for Lake Fayetteville Ballfield Renovations

The City of Fayetteville is accepting statements of qualifications from construction management firms properly licensed to provide, construction management / general contractor (CM/GC) services as a construction management at risk (CMAR) / guaranteed maximum (GMP) project for the Lake Fayetteville Ballfield Renovations Project. The project includes storm drainage, fencing & related field infrastructure, natural & synthetic turf, irrigation & pump system, athletic field & parking lot lighting, and sidewalk & parking improvements.

Professional Services required include:

1. Ensure all funds are spent in accordance with State of Arkansas Procurement laws
2. Guaranteed maximum price construction
3. Cost Estimating
4. Sub-contractor bidding
5. Project and change order pricing
6. Schedule control
7. Management of demolition and reconstruction
8. Cost reduction and control
9. Project coordination with the design engineer and the City of Fayetteville.
10. Project close out
11. Warranty

To be considered, statements of qualification shall be received electronically through the City of Fayetteville, Purchasing Division's online bidding platform by Thursday, February 16, 2023 before 2:00:00 PM, local time.

A non-mandatory pre-proposal conference will be held on Thursday, February 2, 2023 at 2:00 PM on-site at Lake Fayetteville Park, 1153 Lake Fayetteville Rd., Fayetteville, AR 72764. Meeting information can be found on the City's online bidding platform.

The solicitation RFQ & addendums can be downloaded from the City's web site at <http://fayetteville-ar.gov/bids>. All questions regarding the process should be directed to Amanda Beilfuss at abeilfuss@fayetteville-ar.gov.

Statements of qualification submitted 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.

Pursuant to Arkansas Code Annotated §22-9-203 The City of Fayetteville encourages all *qualified* small, minority and women business enterprises to bid on and receive contracts for goods, services, and construction. Also, City of Fayetteville encourages all general contractors to subcontract portions of their contract to *qualified* small, minority and women business enterprises.

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

Ad dates: 01.22.2023, 01.23.2023, and 01.24.2023

This publication was paid for by the Purchasing Division of the City of Fayetteville, Arkansas.

Amount paid: \$XXX.XX.

RFQ 23-02
Appendix C
City Issued RFQ

SECTION:	PAGE NUMBER
Cover Page	01
Advertisement	02
SECTION A: General Terms & Conditions	05
SECTION B: Vendor References	12
SECTION C: Project Summary and Scope of Work	13
SECTION D: Signature Submittal	

RFQ 23-02
Appendix C
City Issued RFQ

1. SUBMISSION OF A STATEMENT OF QUALIFICATION SHALL INCLUDE:

- a. A written narrative describing the method or manner in which the Proposer proposes to satisfy requirements of this RFQ in the most cost-effective manner. The term Proposer shall be in reference to a firm or individual responding to this solicitation. The term proposal is used in these documents as equal to statement of qualification.
- b. A description of the Proposer's experience in providing the same or similar services as outlined in the RFQ. 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 RFQ.
- a. Electronic Submittal: Proposers are required to go to www.fayetteville-ar.gov/bids and follow the prompts to submit a statement of qualifications within the electronic bidding platform. All Proposers must register in order to be able to submit. There is no fee for registration. **Physical submittals are not allowed for this RFQ.**
 - i. SOQ's 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 submittals shall be formatted for standard 8 ½" x 11" size documentation. Exceptions would be schematics, exhibits, one-page resumes, and City required forms. Proposals shall be limited 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 uploaded in a PDF format to the City's electronic platform prior to the stated deadline.
- b. 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 and at that time only for the intended selection.
- c. Proposers shall submit a statement of qualification based on documentation published by the Fayetteville Purchasing Division.
- d. Proposals shall be uploaded as a single PDF document to the City of Fayetteville's online electronic bidding platform
- e. Proposals must follow the format of the RFQ. Proposers should structure their responses to follow the sequence of the RFQ, if provided.
- f. Proposers shall have experience in work of the same or similar nature and must provide references that will satisfy the City of Fayetteville. Proposer may furnish a reference list of clients for whom they have performed similar services and must provide information as requested in this document.
- g. Proposer is advised that exceptions to any of the terms contained in this RFQ or the attached service agreement must be identified in its response to the RFQ. 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.

- h. Local time shall be defined as the time in Fayetteville, Arkansas on the due date of the deadline, per the online bidding platform being utilized by the City of Fayetteville Purchasing Division. Documents shall be received before the deadline.

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 RFQ made or given prior to the award of the contract.

3. RIGHTS OF CITY OF FAYETTEVILLE IN THIS PROCESS:

In addition to all other rights of the City of Fayetteville, under state law, the City specifically reserves 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 that 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.
- e. The City of Fayetteville reserves the right to remedy or waive technical or immaterial errors in the request for statements of qualification or resulting submittal.
- 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.

4. EVALUATION CRITERIA:

The evaluation criteria define 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 RFQ. Proposers are not guaranteed to be ranked.

5. 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.

6. ORAL PRESENTATION:

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

7. 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.

8. WITHDRAWAL OF STATEMENT:

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

9. 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 should refer to their submission status in the online electronic bidding platform to ensure submission confirmation.

10. LOCAL, STATE, AND FEDERAL COMPLIANCE REQUIREMENTS:

- a. The laws of the State of Arkansas apply to any purchase made under this request for statements of qualification. Proposers shall comply with all local, 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.
- b. Pursuant to Arkansas Code Annotated §22-9-203 The City of Fayetteville encourages all *qualified* small, minority and women business enterprises to bid on and receive contracts for goods, services, and construction. Also, City of Fayetteville encourages all general contractors to subcontract portions of their contract to *qualified* small, minority and women business enterprises.

11. COLLUSION:

The Proposer, by affixing his or her signature to this proposal, agrees to the following: "Proposer certifies that his 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."

12. RIGHT TO AUDIT, FOIA, AND JURISDICITON:

- a. The City of Fayetteville reserves the privilege of auditing a vendor's records as such records relate to purchases between the City and said vendor.
- 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.

13. 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.

14. VARIANCE FROM STANDARD TERMS & CONDITIONS:

All standard terms and conditions stated in this request for statements of qualification 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.

15. 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), not later than seven days prior to the deadline. Persons needing translation of this document shall contact the City of Fayetteville, Purchasing Division, immediately.

16. 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 RFQ. 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 RFQ. 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.

17. 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 vendor of such occurrence and contract shall terminate of the last day of the current fiscal period without penalty or expense to the City.

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

- a. The CMAR 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 RFQ.
- b. In the event of a corporate acquisition and/or merger, the CMAR 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. The right to terminate this contract, which shall not be unreasonably exercised by the City, shall include, but not be limited to, instances in which a corporate acquisition and/or merger represent a conflict of interest or are contrary to any local, state, or federal laws. Action by the City awarding a proposal to a firm that has disclosed its intent to assign or subcontract in its response to the RFQ, without exception shall constitute approval for purpose of this Agreement.

19. NON-EXCLUSIVE CONTRACT:

Award of this RFQ shall impose no obligation on the City to utilize the vendor 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.

20. ADDITIONAL REQUIREMENTS:

The City reserves the right to request additional services relating to this RFQ 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.

21. SERVICES AGREEMENT:

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

22. INTEGRITY OF STATEMENT OF QUALIFICATION (RFQ) DOCUMENTS:

Proposers shall use the original RFQ 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 RFQ 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 RFQ documents by the Proposer, whether intentional or otherwise, will constitute grounds for rejection of such RFQ response.** Any such modifications or alterations a Proposer wishes to propose shall be clearly stated in the Proposer's RFQ response and presented in the form of an addendum to the original RFQ documents.

23. LOBBYING:

Lobbying or communicating with 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 or communication 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. DEBARRED ENTITIES:

By submitting a statement of qualification, vendor states submitting entity is not a debarred company with the federal, any state, or local government.

25. OTHER GENERAL CONDITIONS:

- a. Proposers shall provide the City with 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. The request for statement of qualification 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 statements of qualification 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 e-mail at (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. No oral interpretation or clarifications will be given as to the meaning of any part of this request for statements of qualification. 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 RFQ. The RFQ 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 RFQ'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 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 City of Fayetteville.

26. INSURANCE:

- a. Any project selected under this RFQ shall require professional liability insurance in the amount of \$1 million US dollars, at minimum. Such Certificate of Insurance shall list the City as an additional insured and not be required unless firm is awarded a contract. Certificate of insurance shall be provided within 10 (ten) calendar days after contract award. The City reserves the right to provide builder's risk insurance in the event it results in a cost savings to the overall project.
 - i. Professional/Comprehensive General Liability Insurance: Minimum \$5 million
 - ii. Builder's Risk
 - iii. Worker's Compensation: Statutory amount
 - iv. General Automotive Insurance as required by state law

27. SELECTION CRITERIA:

The evaluation criterion below defines the factors which will be used by the selection committee to evaluate and score responsive, responsible and qualified proposals. The evaluation factors are as follows:

1. **30 Points** – Specialized experience and technical competence of the firm with respect to the type of professional services required
2. **25 Points** – Capacity and capability of the firm to perform the work in question including specialized services, within the time limitations fixed for the completion of the project
3. **25 Points** – Past record of performance of the firm with respect to such factors as control of costs, quality of work, and ability to meet schedules and deadlines
4. **20 Points** – Firm's proximity to and familiarity with the area in which the project is located

******NOTE: Fees shall NOT be included with any statement of qualification.** Price shall not be a considered a factor used to select a vendor. Price and fees will not be considered until the negotiating process and will be a factor in the award of any proposed contract. In the event the City is not able to negotiate a successful contract with the selected vendor, the City reserves the right to cease negotiations with such selected vendor and proceed on to the next selected vendor.

RFQ 23-02
Appendix C
City Issued RFQ

City of Fayetteville
RFQ 23-02, CMAR for Lake Fayetteville Ballfield Renovations
SECTION B: Vendor 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 IN WHICH CMAR HAS PREVIOUSLY PERFORMED CONTRACT SERVICES FOR WITHIN THE PAST FIVE (5) YEARS FOR PROJECTS OF SIMILAR SCOPE AND SIZE (All fields must be completed):

1. _____
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

3. _____
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

A). PROJECT SUMMARY

I. The City of Fayetteville is accepting statements of qualifications from licensed professionals to provide construction management at risk (CMAR) services for the Lake Fayetteville Softball Renovation Project. The project includes storm drainage, fencing & related field infrastructure, natural & synthetic turf, irrigation & pump system, athletic field & parking lot lighting, and sidewalk & parking improvements.

- Storm Drainage
 1. Enhance and/or replace the existing storm drainage to accommodate runoff from field and parking areas.
 2. Grade fields and/or install in field drainage system to provide controlled drainage from field surface.
 3. Provide drainage system under synthetic turf infield that connects to storm drain.
- Fencing & Related Field Infrastructure
 1. Replace existing chain link fencing with poly-coated chain link with a mow strip.
 2. Provide backstop fencing and netting combination, bleachers, and bleacher covers for safety of spectators.
 3. Provide covered chain link dugouts and team benches.
 4. Provide batting cage system with netting and turf covered concrete pad.
 5. Provide foul poles, scoreboard, and field signage.
- Natural & Synthetic Turf
 1. Certified hybrid Bermuda grass sod in outfield.
 2. Synthetic turf infield with multiple base settings to accommodate multiple uses.
- Irrigation & Pump System
 1. Provide new irrigation to outfield turf.
 2. Provide upgraded irrigation pump system to utilize lake water.
- Athletic Field & Parking Lot Lighting
 1. Relocate athletic field lighting poles as necessary.
 2. Add lighting for batting cages.
 3. Add security lighting for complex and parking lot.

- Sidewalk & Parking Improvements

1. Provide concrete ADA sidewalks and concourse as needed.
2. Provide ADA parking spaces as needed and improve parking lot layout with tree islands.
3. Improve dumpster pad and approach.
4. Improve hard surface use areas as needed.

II. Crafton Tull & Associates, Inc. is serving as the lead design professional for this project.

III. **Project funding:** The total project funding is encompassed by a voter approved bond issue.

B). PROJECT INFORMATION & REQUIREMENTS

- I. Request for Qualifications (RFQ) responses shall be submitted from one single primary construction manager firm with each additional contracted third party as a subcontractor to the primary. The primary firm in addition to any contracted third party shall be disclosed with the RFQ response and be considered the project team for the overall construction scope of the project. This requirement to provide sub-consultant professionals does not include subcontractor trades for the actual construction items (Electrical, Masonry etc.) as those items will be bid after contract award.
- I. Responses **shall not include** price or hourly rates, or any pricing structure. Pricing shall be negotiated with the top ranked selected firm only and is not considered part of this selection. The City intends to negotiate each phase as a not to exceed fee with the selected firm.
- II. It is the intent of this solicitation to enter into a mutually beneficial agreement indicated by the draft provided with this RFQ.
- III. The Primary responding firm shall be experienced in constructing a wide variety of streetscape elements such as; street reconstruction, shared-use paved trails, sidewalks, stormwater infrastructure, lighting, signalization, landscaping, irrigation and specific pavement materials. Respondents to this RFQ shall submit at least three (3) similar type projects within the past 10 years that demonstrates successful street projects.

C). SCOPE OF WORK

- I. **Overview:** Anticipated phases are identified below with associated scope of work. Scope of work is not limited to any additional industry standard scope of work necessary to complete each phase. **Selected Primary firm shall coordinate with the design team composed of Crafton Tull & Associates Inc. and the City of Fayetteville in order to achieve best value for the overall success of the project, including working to achieve maximum cost savings. Coordination with design team is critical for all phases.**

II. PHASE 1: Design Development and Construction Drawings from the current plans to final plans

a. Construction Documents Phase

- i. Review Construction Documents/Plans and Specifications. Crafton Tull & Associates will submit construction document sets to the design team and the Construction Manager, and electronic versions as necessary, for review, cost analysis and approval. (100% plan review).
- ii. Attend follow up meetings with the design team.
- iii. Provide guidance to Crafton Tull & Associates to find efficient solutions to the plans to reflect issues noted the design team, inclusive of any necessary redesign prompted from the permit process.
- iv. Construction Documents/Plans, Specifications and Project Drawings shall be routed through the City of Fayetteville for required approvals.
- v. Assist Crafton Tull & Associates in responding in writing to all Design Team comments on plans.
- vi. Assist Crafton Tull & Associates and the City with the bid form and identify all separate trade packages.
- vii. Facilitate with Crafton Tull & Associates and the Design Team in conducting cost-benefit analyses to understand construction costs, life-cycle cost impacts and long-term maintenance costs.
- viii. Coordinate with the design team to create plans for closure and detour of both pedestrian and street zones based on construction phasing.

b. Bid Phase

- i. Coordinate with City Purchasing Division to ensure all procedures followed for this phase meet state laws and City of Fayetteville Purchasing Policies.
- ii. Provide services for reproduction and dissemination of bid sets (project manual and stamped drawings) to the City Design Team [PM (1), Purchasing (1) and interested bidders]. Documents should be made available to any interested party electronically at no cost.
- iii. Provide distribution of plans to all interested parties.
 - 1. Maintain open communication with the City of Fayetteville Purchasing Division throughout the bidding process.
 - 2. Distribution of all documents shall be done in a fair and unbiased manner while keeping all interested parties on equal terms.

3. Document and keep an updated accurate record of plan holder's and provide updated listings to all interested parties in a timely manner.
 4. Answers to questions and inquiries shall be made in the form of an addendum and shall be provided to all interested parties at the same time.
- iv. Coordinate with City Purchasing Division during pre-bid meeting, facilitate and attend the Bid Opening.
 - v. Maintain open communication with the City Purchasing Division during any process involving Request for Information (RFI).
 - vi. Any addenda shall be provided to the Purchasing Division for review and approval in advance of issuance. Bidders, interested parties, and plan holders shall receive all information included in addenda at the time addenda is issued.
 - vii. In the event the CMAR desires to self-perform a portion of the work or a trade package, the CMAR shall submit a bid package in the same time and manner as other interested parties.
 - viii. Assist with the design of all Bid Proposals.
 - ix. Review Crafton Tull & Associates's Recommendation of Award Letter that includes the following required content (and assist with):
 1. Check for math errors and reconcile any mathematical discrepancies,
 2. Review for unbalance bid items,
 3. Coordinate with the City Purchasing Division in finalizing a Certified Bid Tabulation including Engineer's estimate,
 4. Review of contractor's financial standing and references provided,
 5. Explanation of discrepancies between the Engineer's estimate and bids, and
 6. Meet with the City to provide a formal written recommendation of award.
 - x. Attend City Council meeting(s) for the recommendation for award of Contract(s) for Construction.

III. Phase 2 Guaranteed Maximum Price and Construction Administration Phase

a. Construction Administration Phase

- i. Put forth diligent and fiscally responsible efforts to ensure the project will be completed on time and within budget.
- ii. Attend Pre-Construction meeting and conduct regular update meetings as jointly determined by the Design Team and contracted construction companies.
- iii. Coordinate with Crafton Tull & Associates and the Design Team on all Request for Change Proposals, Change Orders, etc. including maintaining a log of all such documents.

- iv. The City of Fayetteville intends to provide regular construction administration services. Crafton Tull & Associates will provide field services, progress meetings, and progress payment review and assistance on a bi-monthly basis.
- v. Review site visit report from the Crafton Tull & Associates, and City of Fayetteville staff team at least twice (2) per month.
- vi. Coordinate with the Design Team to conduct Substantial Completion Inspection, coordinate with architect to create punch list, substantiate that items noted are completed, and issue Substantial Completion Certificate.
- vii. The Design Team shall be notified to attend all on-site meetings, review and approve all pay requests, and change order review prior to Mayor's approval.
- viii. Coordinate with the design team to create plans for closure and detour of both pedestrian and street zones based on construction phasing.

b. Project Close Out

- i. Provide Warranty Services during the entire Warranty Period. Crafton Tull & Associates to issue Warranty Reports and review items after the CM has notified the City that these items are complete.
- ii. Provide support services as needed during the project close out process.
- iii. Provide close out submittal to Crafton Tull & Associates for completeness before transmitting to the City which include but are not limited to:
 - 1. Contractor's red lines and as-built notes
 - 2. Provide as-Built record drawings noting any changes to the plans prepared by Crafton Tull & Associates (in hard copy and digital format)
 - 3. Produce a project narrative that provides a comprehensive review of the construction activities for the project with a project narrative submitted for City approval at the completion of each contract phase

D). PROFESSIONAL SERVICES AND ADDITIONAL REQUIREMENTS:

I. Professional Services:

- a. Any entity responding to this RFQ shall be a current licensed contractor with the State of Arkansas Contractor's Licensing Board. Failure to hold a current contractor's license shall result in submittal rejection. All subcontractors on the project shall be properly licensed by the State of Arkansas Contractor's Licensing Board.

- b. Any industry standard cost share or savings incentive practices desired for discussion during contract negotiations should be disclosed with RFQ response. Cost sharing practice shall be presented in the format of a general best practices approach and contract terms and shall not include pricing related figures. **Pricing and fees are not part of the selection criteria and shall not be include with RFQ submittal.**
- c. The resulting contract of this solicitation shall be a Guaranteed Maximum Price (GMP) construction contract; however, price itself shall not be considered until a firm has been selected based on qualifications. Price will be negotiated with the most qualified firm, as evaluated and voted on by the selection committee.
- d. Performance and payment bonding. After a contract has been awarded to the selected construction manager (CM) and within ten (10) calendar days of the final construction contract being finalized, provide a 100% separate performance and payment bond to the City of Fayetteville after being file marked at the Washington County Circuit Clerk's Office.
- e. Construction contracts for the project shall not be entered into without a 100% payment and performance bond in the amount of the contract and any amendments thereto and shall provide for the manner in which the construction shall be managed and supervised. Bonds shall be valid and exchanged between all parties. The CMAR shall hold all trade contracts and purchase orders and shall bond and guarantee the project.
- f. After contract award, the awarded CM shall furnish a certificate of insurance showing that insurance policies are carried in amounts acceptable to the City. Forms of insurance shall be, Comprehensive General Liability, Builder's Risk, Property Damage Insurance, Worker's Compensation, and Automobile coverage. Such insurance shall be kept in full force and in effect until all work has been satisfactorily completed and accepted. All certificates of insurance shall list the City of Fayetteville as an additional insured.
- g. Ensure all funds spent are in accordance with State of Arkansas procurement laws, including but not limited to
- Ensuring CMAR maintaining a proper license with the Arkansas Contractors Licensing Board
 - Ensuring all subcontractors on the project are properly licensed by the Arkansas Contractors Licensing Board
 - Compliance with Arkansas state law including but not limited to sections:
 - A.C.A. § 14-58-1001
 - A.C.A. § 19-11-801
 - A.C.A. § 17-25-101
 - A.C.A. § 17-38-101
 - A.C.A. § 17-33-101
 - A.C.A. § 12-13-101
 - A.C.A. § 12-80-101
 - A.C.A. § 22-9-101
 - A.C.A. § 22-9-103

- A.C.A. § 22-9-104
 - A.C.A. § 22-9-213
 - A.C.A. § 22-9-401
 - A.C.A. § 22-9-501
 - A.C.A. § 22-9-601
 - A.C.A. § 22-9-701
 - And all competitive bidding statutes shall remain in full force and effect and not be affected hereby
 - This project shall not authorize a design-build project contract or sub-contracts
- h. Project and change order pricing
 - i. Schedule control
 - j. Cost reduction and control
 - k. Project coordination
 - l. Project close out
 - m. Warranty

II. Submittal Requirements: The RFQ submittal should contain the following response items arranged in order, tabbed, and with a table of contents. In order to issue a uniform review process and to obtain the maximum degree of comparability, it is required that the submittal be organized in the manner specified.

- a. Title Page: Show the name of agency/firm, address, and telephone number, name of contact person, date, and subject: RFQ 23-02.
- b. Table of Contents: Include a clear identification of the material by section and by page number.
- c. Letter of Interest: Name, address, brief history of firm and Submitter's interest in the proposed project. Briefly state the agency/firm understands the work to be done and makes a positive commitment to perform the work. Give the name of the person(s) who will be authorized to make representation for the Submitter, their titles, addresses and telephone numbers. Describe the perceived strengths to carry out the project.
- d. Project Team Organization: Provide an organizational chart indicating the relationship between the Submitter's staff members who have responsibilities related to this project. Indicate on the chart the names of key personnel and their titles. Submit professional qualifications and resumes of staff to be assigned to this project, showing where they have performed work on similar projects including Construction Management GMP projects.
- e. Specialized and Past Experience: Provide information regarding past experience in relation the services requested in this RFQ including information pertaining to customer satisfaction, timely completion, and meeting budgets on similar projects executed under a GMP contracting format.
Actual price and fees shall not be included in submittal.
- f. Schedule: Submitter shall provide a general schedule for the completion of the scope of the specified project.

- g. Additional Background: All Submitters are invited to include a maximum of two pages of information not included above which may be useful and applicable to this project.

III. Items to Specifically Include with Response: Responses shall include the following in addition to other requirements specified.

- a. Prior experience constructing streetscape and similar project types.
- b. Statement regarding understanding of pre-construction services and approach to billing for pre-construction services. Included as part of this statement should include a clear definition of understanding for what a Guaranteed Maximum Price (GMP) means.
- c. Records of management teams on similar projects with timely completion, and high-quality workmanship.
- d. Records of previous similar projects with owner verification and contact information. Please provide contact information including reference contacts of the owner and architect on at least 3 projects. These projects should be within the past five years.
- e. Current and projected workload
- f. Current maximum bonding capacity and rate
- g. Proof of licensure from the State of Arkansas Contractor's Licensing Board

E). ANTICIPATED PROJECT TIMELINE:

Date	Time	Description
Sunday 1/22/23, 1/23/23, and 1/24/23	N/A	Advertisement for RFQ in local newspaper, 3 consecutive days
Thursday, February 2, 2023	2:00 PM	Pre-Proposal Conference – open to all interested parties
Thursday, February 16, 2023	2:00 PM	Deadline to submit a Statement of Qualification – electronic only
TBD	TBD	Selection Committee Meeting – short list firms
TBD	TBD	Interviews with short listed firms

All interested parties are advised, per City Policy, that all contact between interested parties and the City shall be through the City of Fayetteville Purchasing Division. Interested parties are strictly forbidden to discuss this project with any City Staff member or Elected Official.

City of Fayetteville
RFQ 23-02, CMAR for Lake Fayetteville Ballfield Renovations
SECTION D: Signature Submittal

1. Disclosure Information

Proposer shall disclose any possible conflict of interest or disclose any financial interest with the City of Fayetteville, including, but not limited to, City of Fayetteville employees. Proposer response shall disclose if a known relationship exists between any principal or employee of submitting firm or its team members or sub-consultants, and any City of Fayetteville employee, or elected City of Fayetteville Official.

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): _____

I certify that; as an officer of this organization, or per the attached letter of authorization, I 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.

2. 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.**

Name of Firm: _____

Name of Primary Contact: _____

Title of Primary Contact: _____

Phone#1 (cell preferred): _____ Phone#2: _____

E-Mail Address: _____

3. Please 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 RFQ 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 vendor to disqualification.

ADDENDUM NO.	SIGNATURE AND PRINTED NAME	DATE ACKNOWLEDGED

4. 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.

5. 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.

6. Pursuant to 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.

7. SUB CONSULTANTS AND TEAM INFORMATION:

Proposer hereby certifies that proposals from the following consultants were used in the preparation of this statement of qualification. Proposer shall attach additional pages if necessary. **This section only applies if CMAR is proposing a sub consultant for estimating, scheduling, accounting/payroll and non-construction trade services.**

Type of Work: _____

Subcontractor's Name: _____

Arkansas License No: _____

Address: _____

Date Firm Established: _____

Percentage of Work: _____

Type of Work: _____

Subcontractor's Name: _____

Arkansas License No: _____

Address: _____

Date Firm Established: _____

Percentage of Work: _____

Questions regarding this form should be directed to the City of Fayetteville Purchasing Division.

NAME: _____

COMPANY: _____

PHYSICAL ADDRESS: _____

MAILING ADDRESS: _____

TAX ID#: _____ SAM UEI#: _____

PHONE: _____ FAX: _____

E-MAIL: _____

ARKANSAS CONTRACTOR'S LICENSE #: _____

ARKANSAS SECRETARY OF STATE FILING #: _____

Signed by :

SIGNATURE: _____

PRINTED NAME : _____

TITLE: _____

DATE: _____

RFQ 23-02
Appendix C
City Issued RFQ

RFQ 23-02 Addendum 2

Crossland Heavy Contractors, Inc.

Supplier Response

Event Information

Number: RFQ 23-02 Addendum 2
Title: CMAR for Lake Fayetteville Ballfield Renovations
Type: Request for Qualifications
Issue Date: 1/22/2023
Deadline: 2/16/2023 02:00 PM (CT)
Notes:

The City of Fayetteville is accepting statements of qualifications from construction management firms properly licensed to provide, construction management / general contractor (CM/GC) services as a construction management at risk (CMAR) / guaranteed maximum (GMP) project for the Lake Fayetteville Ballfield Renovations Project. The project includes storm drainage, fencing & related field infrastructure, natural & synthetic turf, irrigation & pump system, athletic field & parking lot lighting, and sidewalk & parking improvements.

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

Crossland Heavy Contractors, Inc. Information

Contact: Kaylee Mann
Address: 501 S. East Ave
Columbus, KS 66725
Phone: (620) 429-1410
Email: kmann@heavycontractors.com

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

Dan Thompson

Signature

dthompson@heavycontractors.com

Email

Submitted at 2/16/2023 12:29:01 PM (CT)

Requested Attachments

RFQ 23-02, Response Submittal

Lake Fayetteville Ballfield Renovations - Crossland Heavy Contractors Submission.pdf

Please upload your completed response, including all required forms.

RFQ 23-02
Appendix D
Crossland's RFQ Response

LAKE FAYETTEVILLE BALLFIELD RENOVATIONS

Request for Qualifications for Construction Manager at Risk

Prepared for:

The City of Fayetteville
Purchasing Division, Room 306
113 W. Mountain Street
Fayetteville, AR 72701
479.575.8256

CROSSLAND
HEAVY CONTRACTORS

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The City of Fayetteville
Purchasing Division, Room 306
113 W. Mountain Street
Fayetteville, AR 72701

RE: RFQ 23-02, CMAR for Lake Fayetteville Ballfield Renovations

Every park project that we are fortunate enough to construct is a project that I look forward to not only because they're fun to build, but also because I can enjoy the final product with my family afterwards. Our entire team feels the same - our favorite projects are the ones we know we will be able to experience with the ones we love the most after our hard work is complete. We look back on these projects with immense pride and count them among some of our finest. We strive to provide a quality service to the local community and to help you on your mission to provide efficient and effective municipal services to the community through a culture of transparent leadership, excellence, and teamwork.

As Community Builders, it is our mission to help our communities to grow, improve, and prepare for all that the future may bring. Part of the pride we take in our Northwest Arkansas Community has come from our work – we have built the parks our families play in, constructed the water treatment plants that supply our homes, widened the roads which improve our commutes, laid miles of trails that we walk and bike, and developed beautiful streetscapes which enhance our Friday nights on the town. We are proud to have partnered with the City of Fayetteville on many projects throughout the region to enhance the lives of each member of your community. We love Northwest Arkansas, and we eagerly anticipate every opportunity to help our community grow and thrive.

Throughout our submission you will find highlights of our experience, our team, and our intentions for your project. Our hand-selected team members will be acutely focused on cost control, quality workmanship, collaboration amongst the project team, and fast-track scheduling throughout the course of your project, starting with an effective Pre-Construction phase. Our experience expanding the Kessler Mountain Regional Park has prepared us to take on the Lake Fayetteville Ballfields. We understand the scope, we actively maintain relationships with all the subs and suppliers, we have the experience to mitigate risks and to capitalize on efficiencies, and we have proven that we can complete the project to the highest level of quality ahead of the deadline for the start of baseball season. We understand the market, we understand the needs of this project and of the City of Fayetteville, and we are the team you can trust to bring this project to reach its highest potential.

Wishing you all the best on this exciting project,



Dan Thompson
Vice President / Arkansas Division Manager
705 S. Lincoln St., Lowell, AR 72745
479.366.1637
dthompson@heavycontractors.com

A nighttime photograph of a sports facility. In the center is a small, single-story building with a light-colored facade and a dark roof. On either side of the building are sets of bleachers with green roofs supported by black poles. The area is illuminated by tall, white light poles. A wide, light-colored paved path leads from the foreground towards the building. The sky is dark blue. A large, diagonal watermark is overlaid across the center of the image, reading "Appendix D Response" and "Crossland's RFP".

PROJECT TEAM ORGANIZATION



Dan Thompson
Project Executive



Ryan Adler
Pre-Construction
Director



Ron Edmond
Project Manager



Doug Westervelt
Safety Director



Garrett Street
Pre-Construction
Manager



Jared Cox
Superintendent



Brandon Bentley
Lead Estimator



Pre-Construction



Pre-Construction & Construction



Construction

Our team members work together throughout the Pre-Construction and Construction Phases so that you can be sure there is a seamless transition with no knowledge-gap as your project progresses.



DAN THOMPSON

Project Executive

CONTACT

 dthompson@heavycontractors.com

 479.366.1637

YEARS OF EXPERIENCE

27 Years

EDUCATION

B.S. Construction Engineering & Technology
Pittsburg State University

CERTIFICATIONS

OSHA 10 Hour
Smith Driving Certified

AREAS OF EXPERTISE

Equipment Procurement
Safety
Organization
Cost Saving Ideas
Value Engineering
Communication
Tight Scheduling Scenarios
Risk Mitigation
Budget Adherence

CIVIC INVOLVEMENT

Springdale Rotary Club

Your Advocate throughout your Project

As Vice President of the Company and Manager of the Arkansas Division, Dan is responsible for supervising all management personnel based and operating within the Arkansas Division. He directly oversees all projects in his region, providing input and executive authorization. He actively maintains relationships with each of Crossland Heavy's valued partners and seeks out ways in which the company can serve them better. Dan is an extremely active and involved Division Manager and offers guidance and direction throughout the life of each of his Division's projects. Dan oversees each project's budget and schedule, ensuring that Crossland Heavy is doing everything possible to meet or exceed our Owners' expectations. He offers input and guidance as necessary to help each project reach a timely and cost-efficient completion.

Highlight Projects

Kessler Mountain Regional Park Ph. 2, \$8.1M
City of Fayetteville, AR

Similarities: Baseball Park, Similar Scope, Tight Timeline

WOKA Whitewater Park, \$28.7M

Grand River Dam Authority, Watts, OK

Similarities: CMAR, Park/Recreation, Tight Timeline, CM Team

Centennial Park Improvements, Fayetteville, AR, \$3.0M
City of Fayetteville, AR

Similarities: Park/Recreation Project, Tight Timeline

Additional Experience

Design-Build Projects:

Davidson WWTP, Hot Springs, AR, \$4.6M

Tyson WWTP, Green Forest, AR \$3.3M

Decatur WWTP MBR Expansion, Decatur, AR, \$9.6M

RWU Train 2 Rehabilitation, Rogers, AR, \$4.6M

CMAR Projects:

BWD FTW & Solids Processing Impr., Lowell, AR, \$4M

RWU Solids Handling Facility Ph 1, Rogers, AR, \$7.8M

Design-Bid-Build Projects:

PWWSD No. 23 WTP, Fredonia, KS, \$21.3M

Beaver Water Treatment Plant, Lowell, AR, \$26.2M

River Intake & Dam Investigation, Fort Scott, KS, \$2M

Tyson WWTP Renovation, Springdale, AR, \$2.6M



RYAN ADLER, DBIA

Pre-Construction Director

CONTACT

 radler@heavycontractors.com

 479.721.5082

YEARS OF EXPERIENCE

14 Years

EDUCATION

B.S. Technology Construction
Management
Pittsburg State University

CERTIFICATIONS

DBIA
OSHA 30 Hour
Associate Constructor (AC)
Trenching/Excavation Training
Rigging & Signaling Certified
ACI Concrete Field Testing Tech
HAZCOM-GHS Training
General Fall Protection Training

AREAS OF EXPERTISE

Collaborative Delivery
Cost Saving Ideas
Engaging Subcontractors
Value Engineering
Communication
Risk Mitigation
Budget Adherence

Guiding your project smoothly through Pre-Construction

Ryan brings over 14 years of experience in the Construction Industry, active involvement in the Design Build Institute of America, and a full resume of successful collaborative delivery projects. He has a wealth of experience in conceptual estimating, target pricing, value engineering, and constructibility review and has a deep understanding of the best practices for CMAR and Design-Build projects. Ryan's vast project experience and his active involvement in many professional organizations will bring a wealth of value to this project. A cost estimation expert, Ryan will offer valuable insight on budget, schedule, and overall constructibility. He will partner with the Pre-Construction Manager Garrett to ensure the project's constructibility and to provide value engineering ideas that will guarantee you the best value project.

Highlight Projects

WOKA Whitewater Park, \$28.7M

Grand River Dam Authority, Watts, OK

Similarities: CMAR, Park/Recreation, Tight Timeline, CM Team

Decatur WWTP MBR Expansion Design-Build, \$9.7M

City of Decatur, AR

Similarities: Collaborative Delivery, Renovation & Rehabilitation

Rogers Train II Rehabilitation Design-Build, \$4.6M

Rogers Water Utilities, Rogers, AR

Similarities: Collaborative Delivery, Renovation & Rehabilitation

Additional Experience

Design Build Projects:

Davidson WWTP, Hot Springs, AR, \$4.7M

Tyson WWTP, Green Forest, AR \$3.3M

Decatur Headworks Imprvmnts, Decatur, AR, \$7M

CMAR Projects:

RWU Solids Handling Facility Ph 1, Rogers, AR, \$7.8M

Mid-Town Corridor, Fayetteville, AR, \$14.5M

Hochatown Off-site Imprvmnts, Hochatown, OK, \$20M

Design-Bid-Build Projects:

Broken Arrow WTP, Broken Arrow, OK, \$57.8M

Lake Ft. Smith WTP, Fort Smith, AR, \$32M

Decatur WWTP, Decatur, AR, \$8.4M

Tyson Data Center, Springdale, AR, \$11M



GARRETT STREET, ASSOC. DBIA

Pre-Construction Manager

CONTACT

 gstreet@heavycontractors.com

 620.202.1834

YEARS OF EXPERIENCE

9 Years

EDUCATION

B.S. Technology Construction
Management
Pittsburg State University

CERTIFICATIONS

OSHA 10 Hour
Confined Space
Trenching/Excavation Training
Forklift Operator Certified
ACI Concrete Field Tech. Grade 1

AREAS OF EXPERTISE

Collaborative Delivery
Safety
Cost Saving Ideas
Material Contracts
Engaging Subcontractors
Value Engineering
Communication
Risk Mitigation
Budget Adherence

Ensuring Cost-Confidence through Pre-Construction

Garrett will manage your project through the Pre-Construction Phase, offering insightful innovations on budget, schedule, value engineering, and overall constructibility throughout the design phase. He keeps the books completely open so you can be 100% confident in every construction dollar you spend. He will work to attract the best subcontractors and suppliers to participate on bid day, ensuring you have both cost certainty and cost confidence when it comes time to execute your GMP. Through his certification with the Design Build Institute of America, Garrett has cutting-edge knowledge of the best practices for collaborative delivery projects, including CMAR and Design-Build. He brings nearly 10 years of experience in the Construction Industry, and a full resume of successful projects.

Highlight Projects

Davidson WWTP Design-Build, \$4.6M
City of Hot Springs, AR

Similarities: Collaborative Delivery, Renovation & Rehabilitation

Decatur WWTP MBR Expansion Design-Build, \$9.7M
City of Decatur, AR

Similarities: Collaborative Delivery, Renovation & Rehabilitation

Rogers Train II Rehabilitation Design-Build, \$4.6M
Rogers Water Utilities, Rogers, AR

Similarities: Collaborative Delivery, Renovation & Rehabilitation

Additional Experience

Emma Avenue Streetscape Impr., Springdale, AR, \$1.3M

Schwans Site Development, Stillwell, OK, \$2.3M

Box Canyon WWTP Impr., Branson, MO, \$2.0M

Allen Road EQ Basin, Centerton, AR, \$2.1M

Central Tunnels + Bridges, Bella Vista, AR, \$3.2M

Kathleen Johnson Memorial Park, Lowell, AR, \$2.4M

Tuscany + Sienna Subdivision, Tontitown, AR, \$2.6M

56th Street Waterline, Springdale, AR, \$5M

Maple + Lafayette Bridge Rehab, Fayetteville, AR, \$2M

Tyson Data Center, Springdale, AR, \$11M

Scull Creek Drainage Impr., Fayetteville, AR, \$1.2M

Tyson Shared Services Parking Lot, Springdale, AR, \$1.4M

Prairie Grove WWTP Expansion, Prairie Grove, AR, \$7.5M



RON EDMOND

Senior Project Manager

CONTACT

 redmond@heavycontractors.com

 918.281.9182

YEARS OF EXPERIENCE

16 Years

EDUCATION

B.S. Construction Engineering & Technology
Pittsburg State University

CERTIFICATIONS

OSHA 30 Hour
Confined Space
Rigging/Signaling Training
Forklift Operator Certified

AREAS OF EXPERTISE

CMAR Projects
Safety
Cost Saving Ideas
Time Saving Ideas
Managing Subcontractors
Value Engineering
Risk Mitigation
Budget Adherence
Efficiency

Continually adding Value to your Project

Ron will be your main contact through the Construction Phase. Throughout the course of your project, Ron will manage all cost accounting and contract administration activities. Ron will also serve as your project's document control manager, maintaining a descriptive project log and database that archives all documents associated with your project. Ron's experience constructing the Kessler Mountain Regional Park Ph. 2 project will bring value and efficiency to this project. His relationships with each of the subcontractors and suppliers on that project will be essential to your success on this project as well. Ron is also currently completing a \$30M recreational CMAR project, in which he has gained a wealth of experience which he will apply to his management of this CMAR project. Ron's clients will all tell you he keeps their best interest at heart, and he is someone they feel they can trust 100%.

Highlight Projects

Kessler Mountain Regional Park Ph. 2, \$8.1M
City of Fayetteville, AR

Similarities: Baseball Park, Similar Scope, Tight Timeline

WOKA Whitewater Park, \$28.7M
Grand River Dam Authority, Watts, OK

Similarities: CMAR, Park/Recreation, Tight Timeline, CM Team

Centennial Park Improvements, Fayetteville, AR, \$3.0M
City of Fayetteville, AR

Similarities: Park/Recreation Project, Tight Timeline

Additional Experience

PWWSD #23 WTF, Fredonia, KS, \$21.3M

Air WWTP Ph. 1 & 2, New Century, KS, \$6.2M

Monett Water Treatment Facility, Monett, MO, \$10.5M

Broken Arrow WTP, Tulsa, OK, \$57.8M

Biosolids Treatment Improvements, Springfield, MO, \$36M

NSWWTP Headworks Improvements, Tulsa, OK, \$12.7M

Beaver Water Switch. Station 1A Gen., Lowell, AR, \$2.3M

Northside WWTP Digesters 3 & 4 Impr., Tulsa, OK, \$5.3M

Fort Scott River Intake & Dam Invest., Fort Scott, KS, \$2.2M

Centennial Park Improvements, Fayetteville, AR, \$3.0M

SWTP Plant 2 Filter Retrofit, Springfield, MO, \$2.3M

Village on the Creeks Trail, Rogers, AR, \$1.6M

Fulbright Ramp - N. Shiloh Drive, Fayetteville, AR, \$1.7M



JARED COX

Superintendent

CONTACT

 jcox@heavycontractors.com

 417.621.1634

YEARS OF EXPERIENCE

6 Years

EDUCATION

B.S. Civil Engineering
University of Arkansas

CERTIFICATIONS

Signaling Trained
Forklift Operator Certified
OSHA 10 Hour
Snorkel Lift Certified
Crosby Rigging Certified
Trenching/Excavation Certified
General Fall Protection Training
Confined Space Trained
Laser Safety
Hot Work Safety
Lockout Tag-out Trained

AREAS OF EXPERTISE

Dirt work
Safety
Civil Engineering
Street Improvements
Constructibility

Driving the Schedule for an on-time Completion

As your Superintendent, Jared is responsible for your project's quality, driving the schedule, controlling costs, and keeping everyone safe. He oversees all field personnel, including field engineers, subcontractors, and tradespersons. He communicates with the project management team, subcontractors, suppliers, and with Crossland's self-performing crews every day, so your project maintains optimum efficiency. He attends all project meetings and keeps the entire project team well-informed of progress and any potential issues that may arise. Jared will develop and implement detailed production schedules and hold safety and pre-task planning meetings with site personnel every week. He places a particular emphasis on quality and holds everyone on the job site to a high standard. Jared's education as a Civil Engineer has equipped him with the technical knowledge that sets him apart from many others in the industry. Combined with his field experience, Jared has a deep understanding of how to construct each project he works on to the highest quality.

Highlight Projects

Centennial Park Improvements, Fayetteville, AR, \$3.0M
City of Fayetteville, AR

Similarities: Park/Recreation Project, Tight Timeline

Gene George Blvd. Improvements, \$5.3M
City of Springdale, AR

Similarities: Concrete & Asphalt Work, Specialty Features

Pinnacle Hills Roundabouts & Uptown Street Impr., \$10.9M
City of Rogers, AR

Similarities: Park/Recreation Project, Tight Timeline

Additional Experience

Tyson Foods Wastewater Reno., Springdale, AR, \$2.6M

Crystal Flats Site Utilities, Bentonville, AR, \$1.0M

Locust Creek Street & Approach, Lead Hill, AR, \$1.6M

Sain Street Extension, Fayetteville, AR, \$4.4M

Oak St. and Uptown Overpass Impr., Rogers, AR, \$20.7M

Hefner WTP Sludge Hdlg. Facilities, Oklahoma City, \$36M



BRANDON BENTLEY

Lead Estimator

CONTACT



bbentley@heavycontractors.com



620.423.4306

YEARS OF EXPERIENCE

12 Years

EDUCATION

M.S. Engineering Technology
B.S. Technology Construction
Management
Pittsburg State University

CERTIFICATIONS

ACI Field Testing Tech Cert.
Signaling Trained
Forklift Operator Certified
OSHA 10 Hour
HAZCOM - GHS Training
Snorkel Lift Certified
Crosby Rigging Certified
Trenching/Excavation Certified
General Fall Protection Training

AREAS OF EXPERTISE

Accurate Costing
Cost Saving Ideas
Value Engineering
Risk Mitigation
Budget Adherence

Involving the Local Workforce to provide 100% Open-Book Pricing

Brandon began his career at Crossland Heavy in the field. He worked his way up to Structure Superintendent, and excelled at managing crews, schedules, subcontractors, quality, and safety. From his field experience, Brandon has developed estimating skills that are unmatched by many others in this industry. As your Lead Estimator, Brandon will accurately analyze your project's scope, reviewing plans to develop the best construction approach. He'll craft accurate target pricing using his experience and his connections in the industry. The Lead Estimator on a number of Design Build and CMAR projects, Brandon understands the design iteration process, constructibility review, and pricing phases. On the WOKA Whitewater Park CMAR Project, Brandon developed multiple value engineering options, working with subcontractors and engineers across the industry, to bring the project closer to budget for the Owner.

Highlight Projects

WOKA Whitewater Park, \$28.7M

Grand River Dam Authority, Watts, OK

Similarities: CMAR, Park/Recreation, Tight Timeline, CM Team

Decatur WWTP MBR Expansion Design-Build, \$9.7M

City of Decatur, AR

Similarities: Collaborative Delivery, Renovation & Rehabilitation

Rogers Train II Rehabilitation Design-Build, \$4.6M

Rogers Water Utilities, Rogers, AR

Similarities: Collaborative Delivery, Renovation & Rehabilitation

Additional Experience

Design-Build Projects:

Davidson WWTP, Hot Springs, AR, \$4.6M

Decatur Headworks Imprvmnts, Decatur, AR, \$7M

CMAR Projects:

BWD FTW & Solids Processing Impr., Lowell, AR, \$4M

Hochatown Offsite Imprvmnts, Hochatown, OK, \$20M

Design-Bid-Build Projects:

Broken Arrow WTP, Tulsa, OK, \$57.8M

Hedge Ln. Pump Station & Rsvr, Olathe, KS, \$21.4M

Prairie Grove WWTP, Prairie Grove, AR, \$7.7M

Haikey Creek WWTP EQ Basin, Broken Arrow, OK, \$9.4M

WWTP & Collection Impr., Louisburg, KS, \$11.1M

Nall Ave. Pump Station & Rsvr, Leawood, KS, \$9.1M

**SPECIALIZED & PAST
EXPERIENCE**



KESSLER MOUNTAIN REGIONAL PARK PHASE 2



PROJECT LOCATION

Fayetteville, AR



DELIVERY METHOD

Design-Bid-Build



CLIENT

City of Fayetteville

Ted Jack

479.444.3469



CONTRACT AMOUNT

\$8,090,683

ENGINEER

Garver

Jeff Webb

479.287.4634

CHC TEAM

Ron Edmond - Project Mgr.

Brandon Bentley - Estimator

Dan Thompson - Executive

Working efficiently to open the community's premier baseball park 45 days early

The City of Fayetteville hired Crossland Heavy Contractors to construct four new baseball fields, adding onto their bustling Kessler Mountain Regional Park. Our scope included excavating, grading, and landscaping four turf fields, installing new batting cage facilities, fencing, field lighting, installing the scoreboards, pouring concrete sidewalks, installing new water, sewer, and drainage utilities, constructing new concession stand and restroom facilities, and installing bleachers with rain covers and dugouts at each field. During construction, the City asked CHC to price a new asphalt parking lot to prepare for the additional cars of the patrons who would be using the new fields and to repair a slope issue that was impacting their current fields. We were able to complete the project including both of these change orders, while battling adverse weather conditions, 45 days ahead of schedule.



TIMELY COMPLETION

Contract Days: 522

Actual Days: 477

BUDGET ADHERENCE

Initial Contract: \$6,387,494

Final Contract: \$8,090,683

PROJECT SIMILARITIES

- Tight Timeline
- Upgraded Baseball Fields
- Stringent Quality Standards
- Same CM Team





WOKA WHITEWATER KAYAK PARK



PROJECT LOCATION

Watts, OK



DELIVERY METHOD

CMAR



CLIENT

Grand River Dam Authority
Holly Moore
918.610.9707



CONTRACT AMOUNT

\$28,680,443

ENGINEER

Merrick
Dan Shea
303.800.9066

CHC TEAM

Ron Edmond - Project Mgr.
Brandon Bentley - Estimator
Dan Thompson - Executive
Ryan Adler - Pre-Con Mgr.

Collaborating to construct a state-of-the-art park for NWA

Crossland Heavy constructed the WOKA Whitewater Park in the Illinois River around the existing Lake Frances Dam. The project consisted of an approximately 1200-foot long whitewater recreation course, a new potable water line, wastewater lift station and pipeline, automated park entrance with payment kiosk, improved and new access roads, parking lot with lighting, changing/restroom building, a harvested rock berm along existing bedrock, dam hazard mitigation structure, and offsite wetland mitigation. The CMAR delivery method allowed the project team to work together collaboratively and to develop the best solutions to mitigate the hazards that come with working in a river. It also allowed for the team to develop value engineering ideas to ensure the project would fit into the owner's budget without sacrificing functionality.



TIMELY COMPLETION

Contract Days: 933

Actual Days: In progress, On track

BUDGET ADHERENCE

Initial Contract: \$28,680,443

Final Contract: \$28,680,443

PROJECT SIMILARITIES

- Tight Timeline
- CMAR Project
- Public Park
- Similar CM Team





BELLA VISTA CENTRAL TUNNELS & BRIDGES



PROJECT LOCATION

Bella Vista, AR



DELIVERY METHOD

Design-Bid-Build



CLIENT

City of Bella Vista

Derek Linn

479.268.4980



CONTRACT AMOUNT

\$3,221,423

ENGINEER

CEI Engineering Associates

Jacob Shy

479.273.9472

CHC TEAM

Garrett Street - Project Mgr.

Brandon Bentley - Estimator

Dan Thompson - Executive

Returning \$42k to the Owner through soil reuse

In an effort to increase biker and hiker safety on their trail network, the City of Bella Vista hired CHC to construct 7 tunnels and 3 bridges to connect their existing trails, creating a network of over 100 miles of trails. Four of the tunnels ran under existing highways, so we created bypass lanes using excavated materials to keep the traffic flowing and to save the City money on fill. Our crews poured large concrete head walls at each end of the new tunnel structures and constructed block retaining walls at each end, creating a transition from the existing trailheads to the tunnels. The largest of the three bridges crosses Little Sugar Creek and is the longest non-traffic bearing bridge structure in Arkansas. Projects of this magnitude can be challenging to manage with the distance between each site, the frequent discovery of unknown underground utilities, and tight working spaces. Our team worked diligently to manage equipment, control traffic, locate and protect underground utilities, and complete the project safely.



BUDGET ADHERENCE

Initial Contract: \$3,263,961

Final Contract: \$3,221,423

PROJECT SIMILARITIES

- Public Recreational Area
- Underground Utilities
- Value Engineering

OWNER QUOTE

"Crossland proved themselves a transparent, talented contractor and quickly earned their reputation as a trusted City partner on a monumental community project."





STREET IMPROVEMENTS AT SHAW PARK



PROJECT LOCATION

Springdale, AR



DELIVERY METHOD

Design-Bid-Build



CLIENT

Milestone Construction Co.

Mike Davis

479.751.3560

ENGINEER

Engineering Services, Inc.

Jason Appel

479.751.8733

CHC TEAM

Dan Thompson - Executive



CONTRACT AMOUNT

\$2,966,088

Constructing accessible roads and sidewalks for Springdale's newest park

Crossland Heavy Contractors worked with Milestone Construction to complete the roadway improvements associated with their new construction of Shaw Family Park in Springdale, Arkansas. The Roadway improvements included a reconstruction of existing roadways associated with the park, pouring new 5' sidewalks and curb, replacing utilities, asphalt paving, improving storm drainage, and constructing a 2,480 square foot concrete retaining wall. Crossland Heavy self-performed several elements of this work including site utilities, storm drain, and concrete work. Despite wet weather which inhibited our schedule, we worked quickly and efficiently and completed the project on time and under budget. Shaw Park is now accessible by motorists and pedestrians and able to be enjoyed by Springdale's active community.



TIMELY COMPLETION

Contract Days: 284

Actual Days: 284

BUDGET ADHERENCE

Initial Contract: \$3,125,225

Final Contract: \$2,966,088

PROJECT SIMILARITIES

- Public Park
- Underground Utilities
- Sidewalks
- On-time Completion





ROGERS POLLUTION CONTROL TRAIN II REHABILITATION



PROJECT LOCATION

Rogers, AR



DELIVERY METHOD

Progressive Design-Build



CLIENT

Rogers Water Utilities
Brian Sartain
479.936.5426



CONTRACT AMOUNT

\$4,664,272

ENGINEER

Olsson
Brad Hammond
bhammond@olsson.com

CHC TEAM

Ryan Adler - Pre-Con Mgr.
Garrett Street - Project Mgr.
Brandon Bentley - Estimator

Eliminating uncertainty early on ensured the long-term success of this collaborative project

The Progressive Design-Build delivery method enabled us to begin the first phase of the construction during the Pre-Construction Phase. Our team drained, cleaned, and evaluated the bardenpho for concrete degradation, then we mapped out the problem areas, greatly reducing the risk of overruns on the project during the Construction Phase. At 60% designed, CHC, in collaboration with Olsson, assembled bid packages and evaluated suppliers & subcontractors best suited for the project and RWU's needs. The Construction Phase included concrete scour repair, full-depth concrete patching, partial depth concrete patching, and specified coatings in high traffic or high abrasion areas such as spill ways, walk ways, and corners. We also replaced equipment including 150 HP surface mounted mixer/aerators, 15-40 HP surface mounted mixers. We installed new blower piping and blowers, weir gates for level control, recirculation pumps, handrail, stairs, landings, and new catwalks. Finally, electrical and control upgrades were completed.

Through collaboration and open book transparency with RWU, we were able to deliver this project on time and under budget, **returning nearly \$200,000 to RWU**. The Utility was able to use that money for other plant improvements that they hadn't originally thought would be manageable with their funding for this fiscal year.

TIMELY COMPLETION

Contract Days: 527

Actual Days: 476

BUDGET ADHERENCE

Initial Contract: \$4,664,272

Final Contract: \$4,664,272

PROJECT SIMILARITIES

- Open Book Pricing
- Returning Unused
- Contingency to Owner
- Collaborative Delivery





RWU SOLIDS HANDLING FACILITY IMPROVEMENTS - PHASE 1



PROJECT LOCATION

Rogers, AR



DELIVERY METHOD

CMAR



CLIENT

Rogers Water Utilities
Brian Sartain
479.936.5426



CONTRACT AMOUNT

\$7,521,318

ENGINEER

Garver
Chris Buntin
479.287.4657

CHC TEAM

Dan Thompson - Executive
Ryan Adler - Pre-Con Mgr.

Nearly \$220k in unused contingency returned to the Owner

This particular project was the first phase of three projects improving the plant's existing Class A biosolids system. Phase one improvements included a new lab addition and controls building, an additional centrifuge and dryer feed conveyance for redundancy, along with a tubular drag system and storage silos. This project serves as one of the first collaborative projects utilizing the Construction Management At-Risk delivery method for a municipality in the State of Arkansas. These improvements allow the City to maintain a safer, more efficient solids handling and distribution process. Crossland Heavy kept an open book policy throughout the project and ended the project under the Guaranteed Maximum Price, **returning \$218,756 in unused contingency to Rogers Water Utilities.**



TIMELY COMPLETION

Contract Days: 395

Actual Days: 425

BUDGET ADHERENCE

Initial Contract: \$7,740,074

Final Contract: \$7,521,318

PROJECT SIMILARITIES

- CMAR Project
- Open Book Pricing
- Returning Unused
- Contingency to Owner





RFQ 23.02
Appendix D
Crossland's RFQ Response

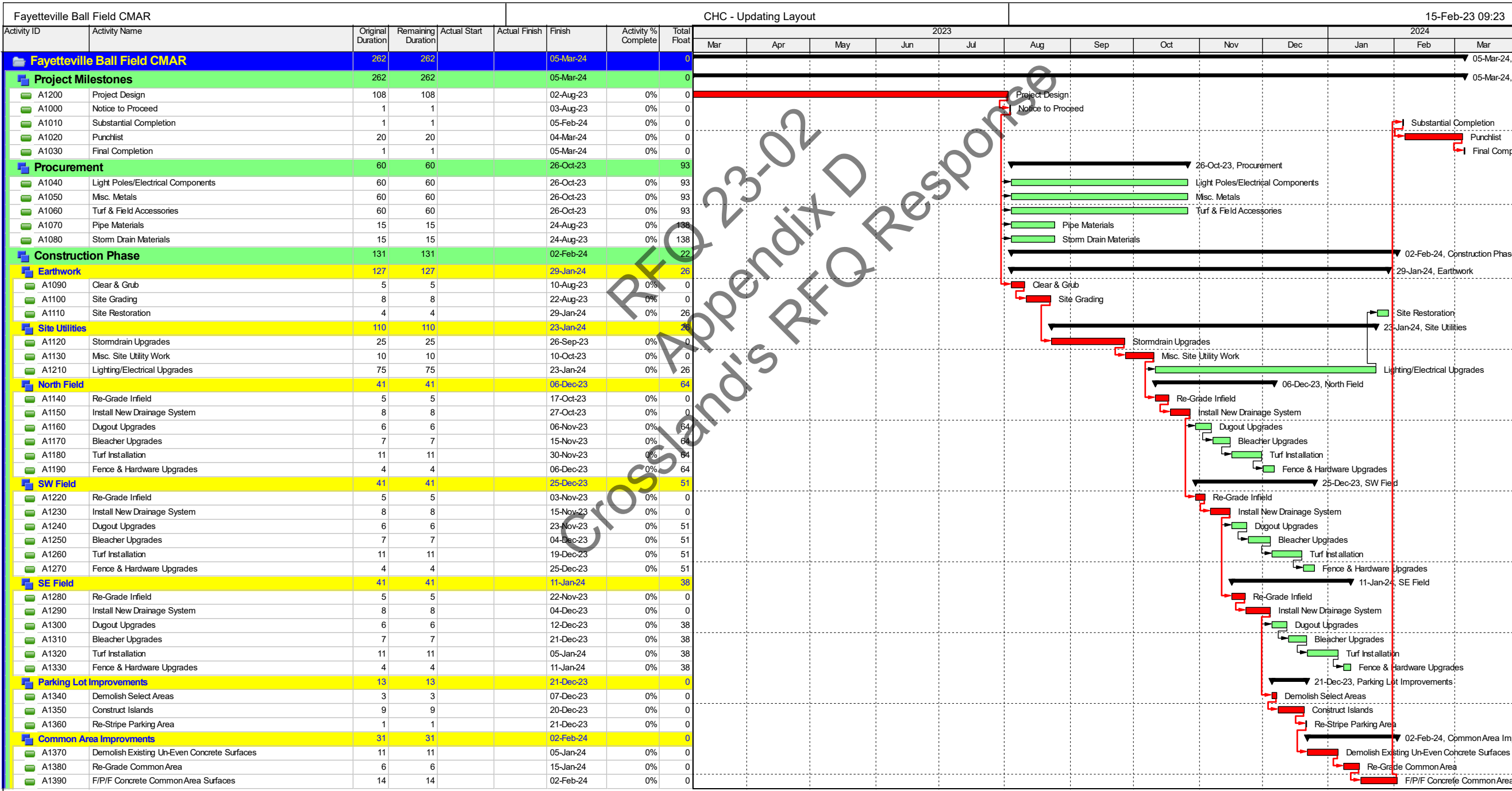
GENERAL SCHEDULE

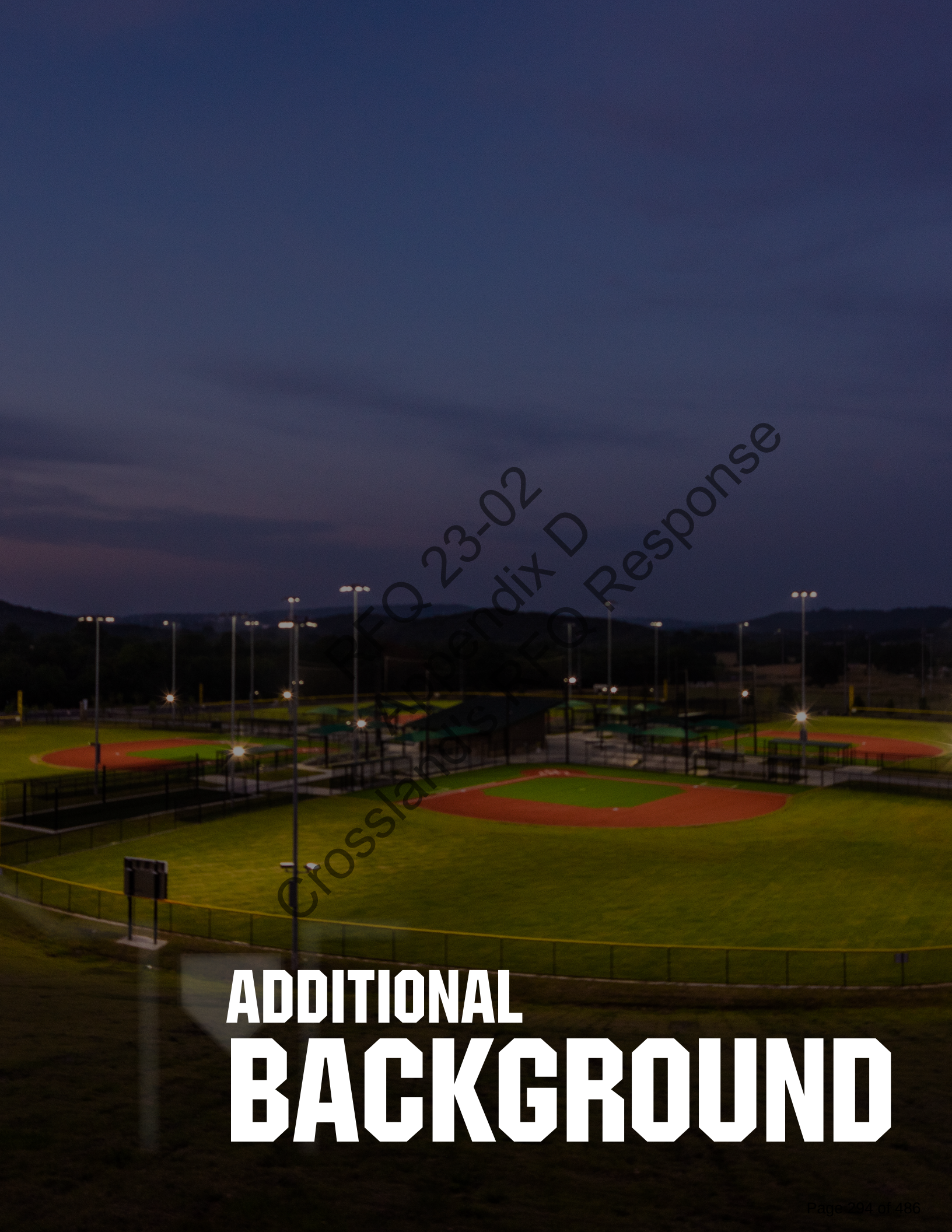
Schedule & Work Sequencing

Our approach to our CMAR projects is to integrate all Pre-Construction deliverables into the CPM schedule at early stages in the design to show all project milestones that affect the critical path of the project. The Pre-Construction milestones will include CMAR and Design deliverables such as design interval deadlines, target pricing submittals, bid periods for a given work package, durations for permits, and GMP submittals.

During the Construction Phase, our team will bring our extensive Parks and Recreation experience including our very recently completed Kessler Mountain Regional Park. We began that project with a tight timeline, accommodated two complex change orders, and still completed the project over one month early. Our thorough understanding of properly sequenced construction activities to achieve an on-time completion will ensure that we produce an accurate and efficient schedule for the Lake Fayetteville Ballfield Renovation project as well. A well thought out and executed schedule is essential to a successful project outcome. CHC prides itself on completing projects on time and within budget and is prepared to utilize our available resources as necessary to assist in making this happen.

CHC has produced a preliminary CPM schedule with the integration of design time lines, CM deliverables, construction activities, and expected completion dates outlined by the City of Fayetteville.





ADDITIONAL BACKGROUND

Crossland Heavy Saves you Time and Money

Crossland Companies is rapidly growing our collaborative delivery resume, while we continue to hard bid and win more and more work every year. We feel that having recent experience in all the current construction project delivery methods makes us a well-rounded, competitive contractor who can pass our experience onto our owners in the form of time and money savings:

- Developing Value Engineering options with Engineers & Owners early in the design
- Getting the best price from the most qualified subcontractors and suppliers
- Ensuring confidence that our GMPs are accurate and competitive
- Competitively and efficiently self-performing work
- Eliminating third-tier markup by bidding work to subcontractors - not GCs

\$50M

of Crossland-owned
Equipment

258+

Projects completed in
Arkansas

130

Arkansas-based
employees

34

Arkansas communities
we've performed work in

0

GMP change orders on
any collaborative project

59

Parks & Recreation
Projects completed in
the Midwest

Crossland is an owner-first, shareholder-second company. We believe in prioritizing our owners' needs above our own, in speaking up when we see a better alternative for the owner even when it may serve against our bottom line, and in giving our best every day to deliver a quality, best value project that exceeds every one of our owners' goals.

What sets us apart

CMAR EXPERIENCE

Crossland Heavy is one of the most experienced CMAR heavy civil contractors in Northwest Arkansas. We have been performing collaborative delivery work since it was first allowed by Arkansas law in 2015. Our goal is always to achieve the best value project for our owners and to return money to them at the end of our projects. We save our owners money because we self-perform much of our work, we hire local subcontractors for scopes we do not self-perform, we seek out cost-saving ideas throughout Pre-Construction & Construction, we follow all CMAR best practices, and we work for the good of our communities.

KESSLER MOUNTAIN REGIONAL PARK EXPERIENCE

Through our most recent project at the Kessler Mountain Regional Park, we have gained the subcontractor & supplier relationships, the scheduling experience, and the knowledge of the City-specific baseball field specifications that will help us to succeed on this project. We will leverage our relationships to get you the best prices and highest quality subcontractors, our scheduling experience will ensure an on-time completion, and our knowledge puts us ahead of the learning curve that comes with taking on a baseball field project for the first time. We are the contractor you have depended on for many recreational and infrastructure projects and can continue to depend on for any need you have for years to come.

THE CROSSLAND HEAVY DIFFERENCE

A small-town company founded on the values of Trust, Responsibility, Integrity, and Passion, every Crossland Heavy employee works with the needs of our owners at the top of our minds. We strive to build Trust with our owners through honest communication and keeping our books open. We take responsibility for the quality of the work we do. We work with integrity, always doing the right thing despite the cost. And we work with passion - each of us loves what we do every day, and we love the communities where we live. Our mission is to strengthen the foundations of our communities, and we work hard to carry out that mission every day.



TOGETHER, WE'LL KNOCK IT OUT OF THE PARK.

**SUPPLEMENTARY
INFORMATION**

Streetscape & Similar Projects



Arkansas Street - \$13M
Rogers, AR



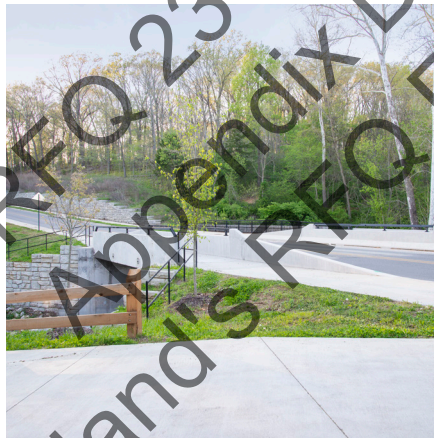
Park Street - \$3M
Springdale, AR



Emma Avenue - \$1M
Springdale, AR



Monte Ne Road Realignment - \$9M
Rogers, AR



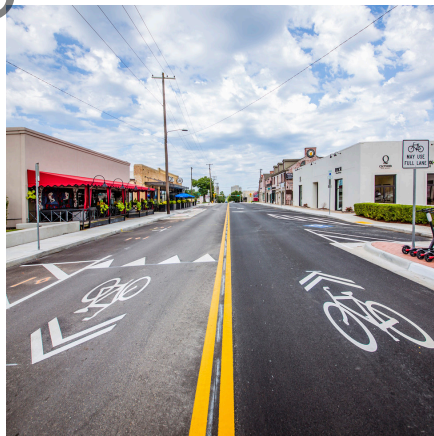
NW 3rd Street, Ph III - \$2M
Bentonville, AR



Bellview Road North - \$11M
Rogers, AR



3rd to 8th St. Greenway Trail - \$1M
Rogers, AR



15th St. Arterial Rehab - \$6M
Tulsa, OK



COT Cameron Streetscape - \$307k
Tulsa, OK

Understanding of Pre-Construction Services

OUR GMP DEFINITION:

The GMP is the contract value agreed upon by the Construction Manager, the Engineer, & the Owner that the project will not exceed; it includes the cost of the work, contingency, allowances, and the Construction Manager's fee and can only be changed when an item that was not originally scoped is added to the project and agreed upon by the entire project team. The GMP should be established after all scopes of work have been reviewed and bids from the public bid have been accepted by the entire project team.

COST OF THE WORK + CONSTRUCTION MANAGER'S FEE = GMP



Establishing the Cost of the Work

CHC takes an approach to establishing GMPs that maintain an open book methodology and that account for the true market condition. Our team typically executes our GMPs after the project goes to public bid. This approach limits the risk for potential GMP changes and ensures you pay exactly what the project costs, and not a penny more. **To date our team has executed 100% of our Collaborative Delivery projects without executing a GMP change.**



Establishing the Contingency

CHC's approach to contingency development and management is that contingency should be quantified by an individual activity within a scope of work and never just an overall percentage of the project. With this approach, we keep contingency within manageable and realistic sums, and on every one of our projects thus far, we've closed the project with unused contingency that we've put back into our owners' pockets. The project owns the contingency! Our approach to utilizing contingency during construction is with approval by the City of Fayetteville through a contingency allocation request (CAR). CARs will be tracked by the CM Project Manager Ron Edmond and reviewed during monthly progress meetings.

Records of Management Teams on Similar Projects

	Kessler Mountain Regional Park	Centennial Park	WOKA Whitewater Park CMAR	Bella Vista Central Tunnels and Trails	Oak St. and Uptown Overpass Improvements	Rogers Train 2 Rehabilitation Design Build	Decatur MBR Expansion Design Build
Dan Thompson	◆	◆	◆	◆	◆	◆	◆
Ryan Adler			◆			◆	◆
Garrett Street				◆		◆	◆
Ron Edmond	◆	◆	◆		◆		
Jared Cox		◆			◆		
Brandon Bentley	◆		◆			◆	◆

Our team members in our Arkansas Division collaborate often while working through the challenges on their projects. We believe our division is better when our team members collaborate frequently, even on projects where they aren't staffed to the same project team.

Current & Projected Workload

Project	Owner	Contract Amount	Est. Completion
Owasso WWTP & Main Lift Station	Owasso Public Works Authority	\$ 21,187,879	23-Feb
LLWWTP UV Disinfection Improvements	Broken Arrow Municipal Authority	\$ 5,841,000	22-Aug
Owasso 116th Widening Garnett to 129th	City of Owasso	\$ 8,603,000	23-Jun
COT NA 8063	City of Tulsa	\$ 3,870,000	23-Jun
Hefner WTP Ozone Expansion	City of Oklahoma City Water Utilities Trust	\$ 44,432,000	25-Jul
RMUA WPC 22-2	Regional Metropolitan Utility Authority	\$ 484,000	23-Aug
COT 7th and 8th St Arterial Rehab	City of Tulsa	\$ 4,146,000	23-May
NSWWTP Digester Improvements Project	Tulsa Metropolitan Utility Authority	\$ 2,392,000	23-Jun
South Canadian WWTP Improvements	City of Oklahoma City Water Utilities Trust	\$ 213,851,000	27-Jan
AB Jewell Clarifier No. 3 Improvements	Tulsa Metropolitan Utility Authority	\$ 12,717,000	23-Jul
Mohawk WTP - RAW Water Bldg Augur Removal	Tulsa Metropolitan Utility Authority	\$ 181,000	23-Apr
2 Inch Waterline Replacement - NW Tulsa	Tulsa Metropolitan Utility Authority	\$ 1,538,000	23-Sep
AB Jewell Sodium Hydroxide Improvements	Tulsa Metropolitan Utility Authority	\$ 1,763,623	24-Mar
Hefner Surge Enhancements	City of Oklahoma City Water Utilities Trust	\$ 2,109,985	23-May
COT NA MZ 1153	City of Tulsa	\$ 4,784,000	23-Nov
Junction City WTP Improvements Phase 2	City of Junction City	\$ 12,210,000	22-Dec
Kaw WTP Electrical & Mechanical Imps Contract 2	City of Lawrence	\$ 4,457,000	22-Apr
Turkey Creek WWTF Miscellaneous Improvements	Johnson County Wastewater	\$ 2,145,500	23-May
Topeka WTP West Plain Basin Rehab	City of Topeka	\$ 10,249,300	23-May
Missouri River Intake HVAC Improvements & Roof Replacement	Water District No. 1 of Johnson County	\$ 1,560,000	23-Jun
Wyss Pumping Station Engine Generator Facilities	WaterOne	\$ 5,776,500	23-Dec
Middle Basin Misc Electrical Improvement	Johnson County Wastewater	\$ 203,459	23-May
DLSMB InDense Pilot	Johnson County Wastewater	TBD	23-Mar
Olathe Sodium Hypo Tank Replacement	City of Olathe	\$ 349,815	23-May
Facility 2 Filer No. 27 Rebuild	WaterOne	\$ 239,000	23-Apr
Larson Building Demo	Johnson County Wastewater	\$ 75,000	23-Feb
Airport Fire Pump Replacement	Johnson County	\$ 97,000	23-Jun
Lime Silo Slaker Addition	City of Independence Water Department	\$ 3,748,400	25-Feb
Clear Creek Lift Station Upgrades	City of Springdale	\$ 3,144,900	23-Feb
Butterfield Coach Lift Station Upgrades	City of Springdale	\$ 3,438,550	23-Mar
Alpena Wastewater System Improvements	Town of Alpena, Arkansas	\$ 4,321,600	23-May
NEO CM South Lake and Green Groove - Outfall Structure	Nabholz Construction Corporation	\$ 347,118	23-Apr
8th St Corridor Improvements	City of Bentonville	\$ 27,802,588	24-Jul
Har-Ber Ave. Ext. - 40th St. to Gutensohn Rd.	City of Springdale	\$ 11,386,350	23-Jul
Springdale Water Utilities Wastewater TF Phase 1 Improvements	City of Springdale Water and Sewer	\$ 51,394,137	25-Feb
Prairie Grove WWTP Expansion	City of Prairie Grove	\$ 7,358,000	23-Jul
Pinnacle Hills Roundabouts and Uptown Street Improvements	City of Rogers	\$ 10,857,450	24-Aug

Bonding Information



PROTECTING ASSETS.
MAKING A DIFFERENCE.

February 13, 2023

City of Fayetteville, Arkansas
Purchasing Division, Room 306
113 W. Mountain Street
Fayetteville, AR 72701

Re: Crossland Heavy Contractors, Inc.

Project: Request for Qualifications 23-02 for Construction Manager at Risk, Lake Fayetteville Ballfield Renovations

To Whom It May Concern,

Our agency manages the surety bond program for Crossland Heavy Contractors, Inc., we have been asked to write this letter to you on their behalf. The IMA team has known and worked with Crossland for more than 30 years and we hold them in the highest regard. We have watched Crossland, time and time again, earn their outstanding reputation as a company and as individuals of high integrity with an exceptional knowledge of the construction industry. The Crossland team consistently delivers quality projects in a timely and cost-effective manner for their clients; they truly are a company who values relationships and doing the job right. It is for these reasons and so many more that I am pleased to write this letter on their behalf.

Surety bonds for Crossland are underwritten by Zurich American Insurance Company and Federal Insurance Company. Bonds are typically written by Fidelity and Deposit Company of Maryland (a company of Zurich American Insurance Company) and Federal Insurance Company. Zurich American Insurance Company and Fidelity and Deposit Company of Maryland maintain "A+ (Superior)", "XV (\$2 Billion or greater)" ratings by the A.M. Best Company and a combined U.S. Treasury listing exceeding \$734,000,000. Federal Insurance Company is a member of the Chubb Group of Companies, which carries an A.M. Best Rating of "A++ (Superior)", "XV (\$2 Billion or greater)"; Federal enjoys a Treasury listing exceeding \$445,000,000, when including the full Chubb family of companies this Treasury listing exceeds \$1 Billion.

Zurich American Insurance Company and Federal Insurance Company would positively consider approval of surety bonds for Crossland on individual contracts of \$500 Million and an aggregate cost-to-complete total company backlog of \$3 Billion. These numbers are guidelines and not limits of surety support. Crossland's sureties would positively consider larger projects or program on a project-by-project basis.

Premium for surety bonds is calculated based upon unique factors for each individual contract. Typically, Crossland's surety bond premiums average between 0.4% and 0.9% of the total contract value. Please note these rates are subject to change and are not guaranteed.

Crossland's surety partners are favorable to executing surety bonds upon acceptable review of all contract terms, bond forms and financing for any project as well as other pertinent underwriting information that may be deemed necessary. The arrangement for performance and payment bonds is a matter between Crossland and their sureties; neither the sureties, IMA, Inc., Crossland or any affiliates assume any liability to you or any parties if for any reason bonds are not written.

I am proud to recommend Crossland Heavy Contractors, Inc. to you. If you should have any questions, or require additional information, please do not hesitate to contact myself or Crossland.

Sincerely,

Camille O. Parman
Surety Account Manager
913-982-3679 / Camille.parman@imacorp.com

Proof of Licensure

License No. <u>0067301123</u>	ID #8600
<i>State of Arkansas</i> Commercial Contractors Licensing Board	
CROSSLAND HEAVY CONTRACTORS, INC. 501 S EAST AVENUE COLUMBUS, KS 66725	
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: HEAVY CONSTRUCTION MUNICIPAL & UTILITY CONSTRUCTION	CROSSLAND HEAVY CONTRACTORS, INC.
This contractor has an unlimited suggested bid limit.	
from <u>October 14, 2022</u> until <u>November 30, 2023</u> when this Certificate expires. Witness our hands of the Board, dated at North Little Rock, Arkansas:	
	<i>Matthew C. Roberts</i>
	CHAIRMAN
	<i>[Signature]</i>
	SECRETARY October 14, 2022 - dsa

Vendor References

City of Fayetteville RFQ 23-02, CMAR for Lake Fayetteville Ballfield Renovations SECTION B: Vendor References

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

COMPANY NAME: Crossland Heavy Contractors

NUMBER OF YEARS IN BUSINESS: 30 HOW LONG IN PRESENT LOCATION: 20 years in Arkansas

TOTAL NUMBER OF CURRENT EMPLOYEES: 337 FULL TIME 21 PART TIME

NUMBER OF EMPLOYEES PLANNED FOR THIS CONTRACT: 20 FULL TIME _____ PART TIME

PLEASE LIST FOUR (4) REFERENCES IN WHICH CMAR HAS PREVIOUSLY PERFORMED CONTRACT SERVICES FOR WITHIN THE PAST FIVE (5) YEARS FOR PROJECTS OF SIMILAR SCOPE AND SIZE (All fields must be completed):

1. Springdale Water Utilities

COMPANY NAME

Springdale, AR 72756

CITY, STATE, ZIP

Brad Baldwin

CONTACT PERSON

479.750.8105

TELEPHONE

FAX NUMBER

bbaldwin@springdalear.gov

E-MAIL ADDRESS

2. Rogers Water Utilities

COMPANY NAME

Rogers, AR 72758

CITY, STATE, ZIP

Brian Sartain

CONTACT PERSON

479.621.1142

TELEPHONE

FAX NUMBER

briansartain@rwu.org

E-MAIL ADDRESS

3. City of Bentonville

COMPANY NAME

Bentonville, AR 72712

CITY, STATE, ZIP

Dennis Birge, PE

CONTACT PERSON

479.271.6840

TELEPHONE

FAX NUMBER

dbirge@bentonvillear.com

E-MAIL ADDRESS

4. Grand River Dam Authority

COMPANY NAME

Tulsa, OK 74128

CITY, STATE, ZIP

Holly Moore

CONTACT PERSON

918.256.5545

TELEPHONE

FAX NUMBER

holly.moore@grda.com

E-MAIL ADDRESS

Signature Submittal Page

City of Fayetteville
RFQ 23-02, CMAR for Lake Fayetteville Ballfield Renovations
SECTION D: Signature Submittal

1. Disclosure Information

Proposer shall disclose any possible conflict of interest or disclose any financial interest with the City of Fayetteville, including, but not limited to, City of Fayetteville employees. Proposer response shall disclose if a known relationship exists between any principal or employee of submitting firm or its team members or sub-consultants, and any City of Fayetteville employee, or elected City of Fayetteville Official.

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): _____

I certify that; as an officer of this organization, or per the attached letter of authorization, I 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.

2. 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.**

Name of Firm: Crossland Heavy Contractors

Name of Primary Contact: Dan Thompson

Title of Primary Contact: Vice President, Arkansas Division Manager

Phone#1 (cell preferred): 479.366.1637 Phone#2: _____

E-Mail Address: dthompson@heavycontractors.com

3. Please 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 RFQ 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 vendor to disqualification.

Signature Submittal Page

ADDENDUM NO.	SIGNATURE AND PRINTED NAME	DATE ACKNOWLEDGED
1	 Dan Thompson	2/14/2023

4. 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.

5. 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.

6. Pursuant to 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.

7. SUB CONSULTANTS AND TEAM INFORMATION:

Proposer hereby certifies that proposals from the following consultants were used in the preparation of this statement of qualification. Proposer shall attach additional pages if necessary. **This section only applies if CMAR is proposing a sub consultant for estimating, scheduling, accounting, payroll and non-construction trade services.**

Type of Work: _____

Subcontractor's Name: _____

Arkansas License No: _____

Address: _____

Date Firm Established: _____

Percentage of Work: _____

Type of Work: _____

Subcontractor's Name: _____

Arkansas License No: _____

Address: _____

Date Firm Established: _____

Percentage of Work: _____

Signature Submittal Page

Questions regarding this form should be directed to the City of Fayetteville Purchasing Division.

NAME: Crossland Heavy Contractors

COMPANY: Crossland Heavy Contractors

PHYSICAL ADDRESS: 705 S Lincoln Street, Lowell, AR 72745

MAILING ADDRESS: 705 S Lincoln Street, Lowell, AR 72745

TAX ID#: 48-113185 SAM UEI#: XLWJNERE6ER3

PHONE: 479.347.7960 FAX: NA

E-MAIL: dthompson@heavycontractors.com

ARKANSAS CONTRACTOR'S LICENSE #: 0067301123

ARKANSAS SECRETARY OF STATE FILING #: 100205582

Signed by :

SIGNATURE: 

PRINTED NAME : Dan Thompson

TITLE: Vice President & Arkansas Division Manager

DATE: 2/14/2023

CROSSLAND
HEAVY CONTRACTORS

REC-23-02
Appendix D
Crossland's RFO Response



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

3/14/2023

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 IMA, Inc. - Kansas City 9393 W. 110th Street Suite 600 Overland Park KS 66210	CONTACT NAME: IMA Wichita Team PHONE (A/C, No, Ext): 316-267-9221 E-MAIL ADDRESS: certs@imacorp.com	FAX (A/C, No):
INSURER(S) AFFORDING COVERAGE		NAIC #
INSURER A: Zurich American Insurance Company		16535
INSURER B: Atlantic Specialty Insurance Company		27154
INSURER C: Indian Harbor Insurance Company		36940
INSURER D: American Guarantee and Liability Insurance		26247
INSURER E:		
INSURER F:		

License#: PC-1210733
CROSCON-03**COVERAGES****CERTIFICATE NUMBER:** 1756478254**REVISION NUMBER:**

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	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☒ PRO-JECT ☒ LOC ☐ OTHER:			GLO859600802	4/30/2022	4/30/2023	EACH OCCURRENCE \$ 5,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 2,000,000 MED EXP (Any one person) \$ 15,000 PERSONAL & ADV INJURY \$ 5,000,000 GENERAL AGGREGATE \$ 10,000,000 PRODUCTS - COMP/OP AGG \$ 10,000,000 \$
A	☒ AUTOMOBILE LIABILITY ☒ ANY AUTO ☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☒ HIRED AUTOS ONLY ☒ NON-OWNED AUTOS ONLY			BAP859615302	4/30/2022	4/30/2023	COMBINED SINGLE LIMIT (Ea accident) \$ 5,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
D	☒ UMBRELLA LIAB ☒ OCCUR ☐ EXCESS LIAB ☐ CLAIMS-MADE ☐ DED ☒ RETENTION \$ 0			AUC425515001	4/30/2022	4/30/2023	EACH OCCURRENCE \$ 10,000,000 AGGREGATE \$ 10,000,000 \$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? ☐ Y ☒ N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		N/A	WC859600702	4/30/2022	4/30/2023	☒ PER STATUTE ☐ OTH-ER E.L. EACH ACCIDENT \$ 2,000,000 E.L. DISEASE - EA EMPLOYEE \$ 2,000,000 E.L. DISEASE - POLICY LIMIT \$ 2,000,000
C B B	Professional/Pollution Liability Builders Risk - Reporting Installation Floater - Reporting			CEO744688606 7900130720009 7100337760010	4/30/2022 4/30/2022 4/30/2022	4/30/2023 4/30/2023 4/30/2023	See Below Any One Job Site Any One Job Site \$125,000,000 \$2,500,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

-Professional Liability \$5,000,000 Each Claim, \$5,000,000 Aggregate; Pollution Liability \$5,000,000 Each Claim, \$10,000,000 Aggregate.
-2nd Layer Excess Liability: Policy #UXP30000900, Effective 4/30/2022 - 4/30/2023, Insurer: Arch Insurance Company, NAIC #11150, \$15,000,000 Each Occurrence, \$15,000,000 Aggregate.
-3rd Layer Excess Liability: Policy #EXC30000318405, Effective 4/30/2022 - 4/30/2023, Insurer: Endurance American Insurance Company, NAIC #10641, \$10,000,000 Each Occurrence, \$10,000,000 Aggregate.
-4th Layer Excess Liability: Policy #NHA097780, Effective 4/30/2022 - 4/30/2023, Insurer: RSUI Indemnity Company, NAIC #22314, \$5,000,000 Each Occurrence, \$5,000,000 Aggregate.

See Attached...

CERTIFICATE HOLDER**CANCELLATION**City of Fayetteville
113 W. Mountain
Fayetteville AR 72701

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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**ADDITIONAL REMARKS SCHEDULE**Page 1 of 1

AGENCY IMA, Inc. - Kansas City		NAMED INSURED Crossland Heavy Contractors, Inc. PO Box 45 833 S. East Avenue Columbus KS 66725	
POLICY NUMBER		EFFECTIVE DATE:	
CARRIER	NAIC CODE		

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,
FORM NUMBER: 25 **FORM TITLE:** CERTIFICATE OF LIABILITY INSURANCE

Re: Insurance qualification for Construction Management at Risk Services for Lake Fayetteville Ballfield Renovations.
If awarded this project, City of Fayetteville would be included as Primary Non-Contributory Additional Insured on the General Liability, Auto Liability and Umbrella Liability policies, if required by written contract, subject to policy terms and conditions.
If awarded this contract a Waiver of Subrogation would be provided in favor of the Additional Insured on the General Liability, Automobile Liability, Workers Compensation and Umbrella Liability policies, if required by written contract, subject to policy terms and conditions.
Additional coverages are available at the request of Crossland Construction Company, Inc.



CITY COUNCIL MEMO

2023-435

MEETING OF MARCH 21, 2023

TO: Mayor Jordan and City Council

THRU:

FROM: Mike Reynolds, Police Chief

DATE:

SUBJECT: Acceptance of 2023 Justice Assistance Grant for Drug Task Force Funding

RECOMMENDATION:

Staff recommends acceptance of the 2023 Justice Assistance Grant (JAG) award for federal and state funding of the 4th Judicial District Drug Task Force (DTF) in the amount of \$124,499 and approval of the corresponding grant documents.

BACKGROUND:

The Arkansas Department of Finance and Administration (ADF&A) has provided federal and state grant funding to the City of Fayetteville for multi-jurisdictional drug task force activities since 1991. Use of these funds are dictated by the 2020-2025 Statewide Strategic Plan adopted by the Arkansas Alcohol and Drug Abuse Coordinating Council. We are the subgrantee of the Arkansas Alcohol and Drug Abuse Coordinating Council, and these grant funds can only be used for law enforcement purposes.

Participating law enforcement agencies include Fayetteville, Springdale, Prairie Grove, Elkins, Farmington, Lincoln, Greenland, West Fork, Elm Springs, Tontitown, Goshen, and Washington County. The DTF Control Group consists of top law enforcement officials from Fayetteville, Springdale, Prairie Grove, and Washington County. Fayetteville continues to provide fiduciary oversight of this grant and provides a DTF Supervisor, three (3) DTF Officers, and a DTF Secretary. Springdale provides four (4) DTF Officers and Washington County provides a DTF Officer. Also, Prairie Grove provides a DTF Officer who is a representative for all of the rural agencies.

At the beginning of the DTF's current grant period (July 2022-June 2023), ADF&A awarded grant funding through the Arkansas State Drug Crime Enforcement and Prosecution Fund to the DTF in the amount of \$91,319 in state funding with a local match requirement of \$27,396. The Arkansas State Drug Crime Enforcement and Prosecution Grant Fund award was approved by City Council on September 20, 2022, via Resolution #215-22.

DISCUSSION:

The 4th Judicial District DTF's total grant budget of all agencies for the current grant period is \$592,325.

ADF&A has awarded grant funding through the 2023 Edward Byrne Memorial JAG Program in the amount of \$62,232 and state funding in the amount of \$43,597. To receive these federal funds from the JAG Program, the 4th Judicial District DTF and member agencies must commit to a local match of \$18,670. In addition to the local match requirement, Fayetteville has budgeted additional funds in its 2023 Annual Operating Budget to

Mailing address:

113 W. Mountain Street
Fayetteville, AR 72701

www.fayetteville-ar.gov

cover other non-grant funded drug enforcement activity. The grant award budget will be distributed as follows: Fayetteville – Federal - \$36,888.79, State - \$25,842.67 with a local match of \$11,066.88, Springdale – Federal - \$9,371.77, State - \$6,565.45 with a local match of \$2,811.59, Washington County – Federal - \$8,251.65, State – \$5,780.74, with a local match of \$2,475.55, Prairie Grove – Federal - \$7,719.79, State – \$5,408.14, with a local match of \$2,315.98. Other member agencies also contribute additional funds to support on-going drug enforcement activity. This JAG award brings the total grant funding in support of the 4th DTF to \$197,148 or approximately 33%.

BUDGET/STAFF IMPACT:

There will be no impact on existing DTF budgets as both grant revenue and expenses were incorporated in the 2023 annual operating budget. This grant funding will have no impact on current staffing levels.

ATTACHMENTS: 4th JD DTF JAG 22 Award Document FY23

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 #: 2023-435

Acceptance of 2023 Justice Assistance Grant for Drug Task Force Funding

A RESOLUTION TO AUTHORIZE ACCEPTANCE OF THE 2023 JUSTICE ASSISTANCE GRANT AWARD IN THE AMOUNT OF \$124,499.00 TO PROVIDE FUNDING FOR THE FOURTH JUDICIAL DISTRICT DRUG TASK FORCE

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 acceptance of the 2023 Justice Assistance Grant award in the total amount of \$124,499.00, which will be used to pay a portion of the salaries of 4th Judicial District Drug Task Force Officers with the Fayetteville, Springdale, and Prairie Grove Police Departments and the Washington County Sheriff's Office, and further authorizes Mayor Jordan to execute the grant agreement and any other documents necessary to receive the funds.



**ARKANSAS DEPARTMENT OF
FINANCE AND ADMINISTRATION**

OFFICE OF INTERGOVERNMENTAL SERVICES

1515 West Seventh Street, Suite 404

P.O. Box 8031

Little Rock, Arkansas 72203-8031

Phone: (501) 682-1074

Fax: (501) 682-5206

<https://www.dfa.arkansas.gov/intergovernmental-services>

☒

JAG

☐

RSAT

☐

DCF

☐

LLEEG

CATALOG OF DOMESTIC FEDERAL ASSISTANCE (CFDA Number)
16.738 - Edward Byrne Memorial Justice Assistance Grant
Program

FEDERAL AWARD NUMBER: 15PBJA-21-GG-00264-JAGX
FEDERAL AWARD DATE: 9/22/2021

1. SUBGRANTEE NAME AND ADDRESS (Including Zip Code)

Lioneld Jordan, Mayor

4th JD /City of Fayetteville Drug Task Force (DTF)

113 West Mountain Street

Fayetteville, AR 72701-6083

2. FEDERAL IDENTIFICATION NUMBER/UEI:

075657742/FKCQRMDULFH9

3. MODIFICATION EFFECTIVE DATE:

4. MODIFICATION AMOUNT

\$

FEDERAL AMOUNT: \$

STATE AMOUNT: \$

LOCAL MATCH: \$

6. SUBGRANT NUMBER: 235041-22JL

7. START DATE: July 1, 2021

END DATE: June 30, 2022

8. AWARD DATE: February 28, 2023

9. ACTION:

Initial

☒

Modification

10. AWARD AMOUNT: \$ 124,499.00

FEDERAL AMOUNT: \$ 62,232.00

STATE AMOUNT: \$ 43,597.00

LOCAL MATCH: \$ 18,670.00

No Indirect Rate Cost

5. PROJECT DESCRIPTION

Identify arrest and prosecute individuals who are manufacturing, selling, or transporting drugs in or through the program's jurisdictional area of operations. This subaward is not an R&D.

11. SPECIAL CONDITIONS (Check if applicable)

☒

THE ABOVE GRANT PROJECT IS APPROVED SUBJECT TO SUCH CONDITIONS OR LIMITATIONS AS SET FORTH IN IT'S APPLICATION AND ALL CERTIFICATIONS, ASSURANCES AND SPECIAL CONDITIONS PREVIOUSLY AGREED TO.

The JAG Program is authorized by Title I of Pub. L. No. 90-351 (generally codified at 34 U.S.C. 10151-10726), including subpart 1 of part E (codified at 34 U.S.C. 10151 - 10158); see also 28 U.S.C. 530C(a).

AGENCY APPROVAL

SUBGRANTEE APPROVAL

12. TYPED NAME AND TITLE OF APPROVING IGS OFFICIAL

Doris Smith, DFA Administrator
Intergovernmental Services

15. TYPED NAME AND TITLE OF AUTHORIZED SUBGRANTEE OFFICIAL

Lioneld Jordan, Mayor
4th JD/City of Fayetteville Drug Task Force (DTF)

13. SIGNATURE OF APPROVING OFFICIAL

14. DATE:

16. SIGNATURE OF AUTHORIZED OFFICIAL

17. DATE:

Application for Federal Assistance SF-424

*** 1. Type of Submission:**

- ☐ Preapplication
☒ Application
☐ Changed/Corrected Application

*** 2. Type of Application:**

- ☒ New
☐ Continuation
☐ Revision

* If Revision, select appropriate letter(s):

* Other (Specify):

*** 3. Date Received:**

4. Applicant Identifier:

5a. Federal Entity Identifier:

5b. Federal Award Identifier:

State Use Only:

6. Date Received by State:

7. State Application Identifier:

8. APPLICANT INFORMATION:

* a. Legal Name: City of Fayetteville, Arkansas

* b. Employer/Taxpayer Identification Number (EIN/TIN):

71-6018462

* c. Organizational DUNS:

0716076880000

d. Address:

* Street1: 100 West Rock Street

Street2:

* City: Fayetteville

County/Parish:

* State:

AR: Arkansas

Province:

* Country:

USA: UNITED STATES

* Zip / Postal Code: 72701-6069

e. Organizational Unit:

Department Name:

Fayetteville Police Department

Division Name:

4th Judicial District DTF

f. Name and contact information of person to be contacted on matters involving this application:

Prefix:

* First Name:

Willie

Middle Name:

* Last Name:

Newman

Suffix:

Title: Fiscal Officer

Organizational Affiliation:

* Telephone Number: 479-587-3581

Fax Number:

* Email: wnewman@fayetteville-ar.gov

Application for Federal Assistance SF-424

*** 9. Type of Applicant 1: Select Applicant Type:**

☒ City or Township Government

Type of Applicant 2: Select Applicant Type:

Type of Applicant 3: Select Applicant Type:

* Other (specify):

*** 10. Name of Federal Agency:**

US Department of Justice, Office of Justice Program, Bureau

11. Catalog of Federal Domestic Assistance Number:

16.738

CFDA Title:

Edward Byrne Memorial Justice Assistance Grant (JAG)

*** 12. Funding Opportunity Number:**

Solicitation FY2022

* Title:

Edward Byrne Memorial Justice Assistance Grant (JAG) Program: FY2022

13. Competition Identification Number:

Title:

14. Areas Affected by Project (Cities, Counties, States, etc.):

Add Attachment

Delete Attachment

View Attachment

*** 15. Descriptive Title of Applicant's Project:**

Law Enforcement/Drug Task Force (Arkansas)

Attach supporting documents as specified in agency instructions.

Add Attachments

Delete Attachments

View Attachments

Application for Federal Assistance SF-424**16. Congressional Districts Of:*** a. Applicant * b. Program/Project

Attach an additional list of Program/Project Congressional Districts if needed.

Add Attachment

Delete Attachment

View Attachment

17. Proposed Project:* a. Start Date: * b. End Date: **18. Estimated Funding (\$):**

* a. Federal	62,232.00
* b. Applicant	0.00
* c. State	43,597.00
* d. Local	18,670.00
* e. Other	0.00
* f. Program Income	0.00
* g. TOTAL	124,499.00

*** 19. Is Application Subject to Review By State Under Executive Order 12372 Process?**☒ a. This application was made available to the State under the Executive Order 12372 Process for review on ☐ b. Program is subject to E.O. 12372 but has not been selected by the State for review.*** 20. Is the Applicant Delinquent On Any Federal Debt? (If "Yes," provide explanation in attachment.)**☐ Yes ☒ No

If "Yes", provide explanation and attach

Add Attachment

Delete Attachment

View Attachment

21. *By signing this application, I certify (1) to the statements contained in the list of certifications and (2) that the statements herein are true, complete and accurate to the best of my knowledge. I also provide the required assurances** and agree to comply with any resulting terms if I accept an award. I am aware that any false, fictitious, or fraudulent statements or claims may subject me to criminal, civil, or administrative penalties. (U.S. Code, Title 218, Section 1001)**

☒ ** I AGREE

** The list of certifications and assurances, or an internet site where you may obtain this list, is contained in the announcement or agency specific instructions.

Authorized Representative:

Prefix: * First Name:
Middle Name:
* Last Name:
Suffix:

* Title: * Telephone Number: Fax Number: * Email: * Signature of Authorized Representative: * Date Signed:



ARKANSAS DEPARTMENT OF FINANCE AND ADMINISTRATION
JUSTICE ASSISTANT GRANT PROGRAM (JAG) AND
STATE DRUG CRIME ENFORCEMENT AND PROSECUTION GRANT

2022-23 BUDGET REQUEST FORM-JUSTICE ASSISTANCE GRANT (JAG)

DCF1

APPLICANT:		4th Judicial District Drug Task Force			
PROJECT TITLE (Law Enforcement)		Multi-Jurisdictional Drug and Crime Task Forces - JAG, STATE, AND LOCAL MATCH PROPOSED BUDGET - JAG FFY23			
BUDGET SUMMARY		FUNDS REQUESTED (FEDERAL AND STATE)	LOCAL MATCH 20% REQUIRED**	TOTAL	MATH CALCULATION FOR REQUESTED AMOUNT
A. SALARY: List all positions for which funding is sought, include positions to be used as match. Include the number of hours worked per week, the salary rate, as well as a brief description of the job duties to be performed by each position in the budget narrative. (Please indicate if Contractual.)					
DTF Supervisor/Jacob Lawson	\$32,780.24	\$0.00	\$32,780.24	Full-time 40 hours/week @ \$42.44 per hour as DTF Supervisor	
DTF Investigator/Dalton Frazier	\$22,951.22	\$0.00	\$22,951.22	Full-time 40 hours/week @ \$28.72 per hour as DTF Investigator	
DTF Investigator/Charles McIlroy	\$7,000.00	\$0.00	\$7,000.00	Full-time 40 hours/week @ \$35.00 per hour as DTF Secretary	
DTF Secretary/Cara Murdoch	\$0.00	\$11,066.88	\$11,066.88	Full-time 40 hours/week @ \$23.13 per hour as DTF Secretary	
Contract Service / Springdale PD	\$15,937.22	\$2,811.59	\$18,748.81	Contract - Full-time 40 hours/week @ \$28.74 per hour plus benefits as DTF Investigator	
Contract Service / Wahington County SO	\$14,032.39	\$2,475.55	\$16,507.94	Contract - Full-time 40 hours/week @ \$27.21 per hour plus benefits as DTF Investigator	
Contract Service / Prairie Grove PD	\$13,127.93	\$2,315.98	\$15,443.91	Contract - Full-time 40 hours/week @ \$24.58 per hour plus benefits as DTF Investigator	
Position 8/Name of Personnel	\$0.00	\$0.00	\$0.00		
Position 9/Name of Personnel	\$0.00	\$0.00	\$0.00		
TOTAL SALARY	\$105,829.00	\$16,670.00	\$124,499.00		
B. MANDATED BENEFITS: Mandated Benefits include FICA, Worker's Compensation and State Unemployment. FICA is calculated at 7.65% of total salary. Worker's Compensation and State Unemployment rates are determined by the respective agencies. (3% is the maximum amount of State Unemployment to be reimbursed)					
FICA @ 7.65% X total salary	\$0.00	\$0.00	\$0.00		
Worker's Compensation for all Positions @ %	\$0.00	\$0.00	\$0.00		
State Unemployment @ % of first \$10000 of salary x number of positions	\$0.00	\$0.00	\$0.00		
Item Name	\$0.00	\$0.00	\$0.00		
TOTAL MANDATED BENEFITS	\$0.00	\$0.00	\$0.00		
C. EMPLOYER BENEFITS: Include all other benefits offered to employee through group policies held by the applicant (e.g., health insurance, retirement, etc.). Payments made directly to employees are not an allowable cost. The grant will not pay an employer match to any health insurance benefit at a rate of more than \$450 (the State's current match for insurance). Retirement benefits will not be reimbursed at a rate above the current state retirement benefit of 15.32%.					
Item Name	\$0.00	\$0.00	\$0.00		
Item Name	\$0.00	\$0.00	\$0.00		
Item Name	\$0.00	\$0.00	\$0.00		
Item Name	\$0.00	\$0.00	\$0.00		
TOTAL EMPLOYER BENEFITS	\$0.00	\$0.00	\$0.00		
D. MAINTENANCE AND OPERATIONS: Include items essential to the effective implementation of activities identified within this proposal (e.g., communications/telephone, vehicle maintenance/fuel, office supplies, utilities/Internet, insurance, security services, etc.)					
Item Name	\$0.00	\$0.00	\$0.00		
Item Name	\$0.00	\$0.00	\$0.00		
Item Name	\$0.00	\$0.00	\$0.00		
Item Name	\$0.00	\$0.00	\$0.00		
Item Name	\$0.00	\$0.00	\$0.00		
Item Name	\$0.00	\$0.00	\$0.00		
Item Name	\$0.00	\$0.00	\$0.00		
TOTAL MAINTENANCE AND OPERATIONS	\$0.00	\$0.00	\$0.00		



ARKANSAS DEPARTMENT OF FINANCE AND ADMINISTRATION
JUSTICE ASSISTANT GRANT PROGRAM (JAG) AND
STATE DRUG CRIME ENFORCEMENT AND PROSECUTION GRANT

2022-23 BUDGET REQUEST FORM - JUSTICE ASSISTANCE GRANT (JAG)

APPLICANT:	4th Judicial District Drug Task Force
PROJECT TITLE (Law Enforcement)	Multi-Jurisdictional Drug and Crime Task Forces - JAG, STATE, AND LOCAL MATCH PROPOSED BUDGET - JAG FFY23

E. SMALL EQUIPMENT: List non-expendable items to be purchased. Non-expendable equipment is tangible property having a useful life of more than two years. (Maximum Amount Per Item is \$1500.00) Contact DFA-IGS prior to requesting equipment items.

Item Name	\$0.00	\$0.00	\$0.00	
Item Name	\$0.00	\$0.00	\$0.00	
Item Name	\$0.00	\$0.00	\$0.00	
Item Name	\$0.00	\$0.00	\$0.00	
TOTAL SMALL EQUIPMENT	\$0.00	\$0.00	\$0.00	

F. PROFESSIONAL/CONTRACT SERVICES: Include any professional service needed to ensure success of the project (i.e. vehicle lease, office rent/storage, consultants-GPA, Accounting/Bookkeeping, etc.) For each consultant enter the name, service to be provided and hourly fee. Estimate time worked on the project. If Contract Services is used for PERSONNEL - use the Personnel/Salary Category, but list as Contractual Services.

Item Name	\$0.00	\$0.00	\$0.00	
Item Name	\$0.00	\$0.00	\$0.00	
Item Name	\$0.00	\$0.00	\$0.00	
Item Name	\$0.00	\$0.00	\$0.00	
Item Name	\$0.00	\$0.00	\$0.00	
TOTAL PROFESSIONAL/CONTRACT SERVICES	\$0.00	\$0.00	\$0.00	

G. TRAVEL/TRAINING: Itemize travel expenses of project personnel by purpose. Training for personnel (IN STATE ONLY). OUT OF STATE TRAVEL/TRAINING MUST BE APPROVED BY IGS.

Item Name	\$0.00	\$0.00	\$0.00	
Item Name	\$0.00	\$0.00	\$0.00	
Item Name	\$0.00	\$0.00	\$0.00	
TOTAL TRAVEL/TRAINING	\$0.00	\$0.00	\$0.00	

H. OTHER COST:

Item Name	\$0.00	\$0.00	\$0.00	
TOTAL OTHER	\$0.00	\$0.00	\$0.00	

TOTAL BUDGET REQUESTED	\$105,829.00	\$18,870.00	\$124,499.00	
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***The 20% Required Local Match is Not Per Line Item But A Percentage of the Total Amount Requested.



ARKANSAS DEPARTMENT OF FINANCE AND ADMINISTRATION
JUSTICE ASSISTANT GRANT PROGRAM (JAG) AND
STATE DRUG CRIME ENFORCEMENT AND PROSECUTION GRANT

2022-23 BUDGET REQUEST FORM-JUSTICE ASSISTANCE GRANT (JAG)

APPLICANT:	4th Judicial District Drug Task Force
PROJECT TITLE (Law Enforcement)	Multi-Jurisdictional Drug and Crime Task Forces - JAG, STATE, AND LOCAL MATCH PROPOSED BUDGET - JAG FFY23

BUDGET SUMMARY	FUNDS REQUESTED (FEDERAL AND STATE)	LOCAL MATCH 20% REQUIRED**	TOTAL
SALARY/PERSONNEL	\$105,829.00	\$18,670.00	\$124,499.00
MANDATED BENEFITS	\$0.00	\$0.00	\$0.00
EMPLOYER BENEFITS	\$0.00	\$0.00	\$0.00
MAINTENANCE AND OPERATIONS	\$0.00	\$0.00	\$0.00
SMALL EQUIPMENT	\$0.00	\$0.00	\$0.00
PROFESSIONAL/CONTRACT SERVICES	\$0.00	\$0.00	\$0.00
TRAVEL/TRAINING	\$0.00	\$0.00	\$0.00
OTHER	\$0.00	\$0.00	\$0.00
TOTAL	\$105,829.00	\$18,670.00	\$124,499.00

AUTHORIZED OFFICIAL (AO)
www.dfa.state.ar.gov
479-575-8330

DATE

Walter A. ...
FISCAL OFFICER (FO)
www.dfa.state.ar.gov
479-587-3561

3-2-23
DATE

ASSURANCES - NON-CONSTRUCTION PROGRAMS

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0040), Washington, DC 20503.

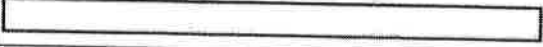
PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

NOTE: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant, I certify that the applicant:

1. Has the legal authority to apply for Federal assistance and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and, (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.
7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
8. Will comply, as applicable, with provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333), regarding labor standards for federally-assisted construction subagreements.
10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).
12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).
14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.
15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. §§2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.
16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.
17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."
18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.
19. Will comply with the requirements of Section 106(g) of the Trafficking Victims Protection Act (TVPA) of 2000, as amended (22 U.S.C. 7104) which prohibits grant award recipients or a sub-recipient from (1) Engaging in severe forms of trafficking in persons during the period of time that the award is in effect (2) Procuring a commercial sex act during the period of time that the award is in effect or (3) Using forced labor in the performance of the award or subawards under the award.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL 	TITLE Mayor
APPLICANT ORGANIZATION City of Fayetteville/4th JDDTF	DATE SUBMITTED 

Standard Form 424B (Rev. 7-97) Back



STANDARD ASSURANCES

The Applicant hereby assures and certifies compliance with all applicable Federal statutes, regulations, policies, guidelines, and requirements, including 2 C.F.R. Part 2800 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards by the Department of Justice), and Ex. Order 12372 (intergovernmental review of federal programs). The applicant also specifically assures and certifies that:

1. It has the legal authority to apply for federal assistance and the institutional, managerial, and financial capability (including funds sufficient to pay any required non-federal share of project cost) to ensure proper planning, management, and completion of the project described in this application.
2. It will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
3. It will give the awarding agency or the Government Accountability Office, through any authorized representative, access to and the right to examine all paper or electronic records related to the financial assistance.
4. It will comply with all lawful requirements imposed by the awarding agency, specifically including any applicable regulations, such as 28 C.F.R. pts. 18, 22, 23, 30, 35, 38, 42, 61, and 63, and the award term in 2 C.F.R. § 175.15(b).
5. It will assist the awarding agency (if necessary) in assuring compliance with section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. § 470), Ex. Order 11593 (identification and protection of historic properties), the Archeological and Historical Preservation Act of 1974 (16 U.S.C. § 469a-1 et seq.), and the National Environmental Policy Act of 1969 (42 U.S.C. § 4321).
6. It will comply (and will require any subrecipients or contractors to comply) with any applicable nondiscrimination provisions, which may include the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. § 3789d); the Victims of Crime Act (42 U.S.C. § 10604(e)); the Juvenile Justice and Delinquency Prevention Act of 2002 (42 U.S.C. § 5672(b)); the Violence Against Women Act (42 U.S.C. § 13925(b)(13)); the Civil Rights Act of 1964 (42 U.S.C. § 2000d); the Indian Civil Rights Act (25 U.S.C. §§ 1301-1303); the Rehabilitation Act of 1973 (29 U.S.C. § 794); the Americans with Disabilities Act of 1990 (42 U.S.C. §§ 12131-34); the Education Amendments of 1972 (20 U.S.C. §§ 1681, 1683, 1685-86); and the Age Discrimination Act of 1975 (42 U.S.C. §§ 6101-07). It will also comply with Ex. Order 13279, Equal Protection of the Laws for Faith-Based and Community Organizations; Executive Order 13559, Fundamental Principles and Policymaking Criteria for Partnerships With Faith-Based and Other Neighborhood Organizations; and the DOJ implementing regulations at 28 C.F.R. Part 38.
7. If a governmental entity—
 - a) it will comply with the requirements of the Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. § 4601 et seq.), which govern the treatment of persons displaced as a result of federal and federally-assisted programs; and
 - b) it will comply with requirements of 5 U.S.C. §§ 1501-08 and §§ 7324-28, which limit certain political activities of State or local government employees whose principal employment is in connection with an activity financed in whole or in part by federal assistance.

Signature of Contracting Official

Date



U.S. DEPARTMENT OF JUSTICE
OFFICE OF JUSTICE PROGRAMS
OFFICE OF THE COMPTROLLER

**Certification Regarding
Debarment, Suspension, Ineligibility and Voluntary Exclusion
Lower Tier Covered Transactions
(Sub-Recipient)**

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 28 CFR Part 67, Section 67.510, Participants' responsibilities. The regulations were published as Part VII of the May 26, 1988 *Federal Register* (pages 19160-19211).

(BEFORE COMPLETING CERTIFICATION, READ INSTRUCTIONS ON REVERSE)

- (1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- (2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Lioneld Jordan, Mayor

Name and Title of Authorized Representative

Signature

Date

City of Fayetteville/4th Judicial District Drug Task Force

Name of Organization

100 West Rock Street, Fayetteville, AR 72701

Address of Organization



U.S. DEPARTMENT OF JUSTICE
OFFICE OF JUSTICE PROGRAMS
OFFICE OF THE COMPTROLLER

CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 28 CFR Part 69, "New Restrictions on Lobbying" and 28 CFR Part 67, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Justice determines to award the covered transaction, grant, or cooperative agreement.

1. LOBBYING

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 28 CFR Part 69, for persons entering into a grant or cooperative agreement over \$100,000, as defined at 28 CFR Part 69, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) 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 agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure of Lobbying Activities," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all sub-recipients shall certify and disclose accordingly.

2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS (DIRECT RECIPIENT)

As required by Executive Order 12549, Debarment and Suspension, and implemented at 28 CFR Part 67, for prospective participants in primary covered transactions, as defined at 28 CFR Part 67, Section 67.510—

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, sentenced to a denial of Federal benefits by a State or Federal court, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a

public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transactions (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 28 CFR Part 67, Subpart F, for grantees, as defined at 28 CFR Part 67 Sections 67.615 and 67.620—

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about—

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will—

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Department of Justice, Office of Justice Programs, ATTN: Control Desk, 633 Indiana Avenue, N.W., Washington, D.C. 20531. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted—

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

Check ☐ If there are workplaces on file that are not identified here.

Section 67, 630 of the regulations provides that a grantee that is a State may elect to make one certification in each Federal fiscal year. A copy of which should be included with each application for Department of Justice funding. States and State agencies may elect to use OJP Form 4061/7.

Check ☐ If the State has elected to complete OJP Form 4061/7.

DRUG-FREE WORKPLACE (GRANTEES WHO ARE INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 28 CFR Part 67, Subpart F, for grantees, as defined at 28 CFR Part 67; Sections 67.615 and 67.620—

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Department of Justice, Office of Justice Programs, ATTN: Control Desk, 633 Indiana Avenue, N.W., Washington, D.C. 20531.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

1. Grantee Name and Address:

City of Fayetteville/4th Judicial District DTF
100 West Rock Street
Fayetteville, AR 72701

2. Application Number and/or Project Name

235041-22JL
Arkansas State Drug Crime Enforcement
and Prosecution Fund / Justice Assistant

3. Grantee IRS/Vendor Number

71-6018462

4. Typed Name and Title of Authorized Representative

Lionel Jordan
Mayor

5. Signature

6. Date

CERTIFICATION FORM

Compliance with the Equal Employment Opportunity Plan (EEOP) Requirements

Please read carefully the Instructions (see below) and then complete Section A or Section B or Section C, not all three. If recipient completes Section A or C and sub-grants a single award over \$500,000, in addition, please complete Section D.

Recipient's Name: City of Fayetteville, Arkansas	
Address: 100 West Rock Street, Fayetteville, AR 72701	
Is agency a; ☐ Direct or ☒ Sub recipient of OJP, OVW or COPS funding?	Law Enforcement Agency? ☒ Yes ☐ No
DUNS Number: 0756577420000	Vendor Number (only if direct recipient)
Name and Title of Contact Person: Willie Newman	
Telephone Number: 479-587-3581	E-Mail Address: wnewman@fayetteville-ar.gov

Section A—Declaration Claiming Complete Exemption from the EEOP Requirement

Please check all the following boxes that apply.

- | | | |
|---|--|--|
| ☐ Less than fifty employees. | ☐ Indian Tribe | ☐ Medical Institution. |
| ☐ Nonprofit Organization | ☐ Educational Institution | ☐ Receiving a single award(s) less than \$25,000. |

I, _____ [responsible official], certify that _____ [recipient] is not required to prepare an EEOP for the reason(s) checked above, pursuant to 28 C.F.R. § 42.302. I further certify that _____ [recipient] will comply with applicable federal civil rights laws that prohibit discrimination in employment and in the delivery of services.

If recipient sub-grants a single award over \$500,000, in addition, please complete Section D

Print or Type Name and Title

Signature

Date

Section B—Declaration Claiming Exemption from the EEOP Submission Requirement and Certifying That an EEOP Is on File for Review

If a recipient agency has fifty or more employees and is receiving a single award or, subaward, of \$25,000 or more, but less than \$500,000, then the recipient agency does not have to submit an EEOP to the OCR for review as long as it certifies the following (42 C.F.R. § 42.305):

I, _____ [responsible official], certify that _____ City of Fayetteville, Arkansas [recipient], which has fifty or more employees and is receiving a single award or subaward for \$25,000 or more, but less than \$500,000, has formulated an EEOP in accordance with 28 CFR pt. 42, subpt. E. I further certify that within the last twenty-four months, the proper authority has formulated and signed into effect the EEOP and, as required by applicable federal law, it is available for review by the public, employees, the appropriate state planning agency, and the Office for Civil Rights, Office of Justice Programs, U.S. Department of Justice. The EEOP is on file at the following office: _____ City of Fayetteville, Arkansas Human Resources Division

[organization],

113 West Mountain Street, Fayetteville, AR 72701

[address].

Lioneld Jordan, Mayor

Print or Type Name and Title

Signature

Date

Section C—Declaration Stating that an EEOP Short Form Has Been Submitted to the Office for Civil Rights for Review

If a recipient agency has fifty or more employees and is receiving a single award, or subaward, of \$500,000 or more, then the recipient agency must send an EEOP Short Form to the OCR for review.

I, _____ [responsible official], certify that _____ [recipient], which has fifty or more employees and is receiving a single award of \$500,000 or more, has formulated an EEOP in accordance with 28 CFR pt. 42, subpt. E, and sent it for review on _____ [date] to the Office for Civil Rights, Office of Justice Programs, U.S. Department of Justice.

If recipient sub-grants a single award over \$500,000, in addition, please complete Section D

Print or Type Name and Title

Signature

Date

Section D—Declaration Stating that Recipient Subawards a Single Award Over \$500,000

If a recipient agency, subawards a single award of \$500,000 or more then the granting agency should provide a list; including, name, address and DUNS # of each such sub-recipient.

[illegible]

If additional space is necessary, please duplicate this page.



STATE OF ARKANSAS

Department of Finance and Administration

OFFICE OF INTERGOVERNMENTAL SERVICES

1515 West Seventh Street, Suite 400
Post Office Box 8031
Little Rock, Arkansas 72203-8031
Phone: (501) 682-1074
Fax: (501) 682-5206
<http://www.dfa.arkansas.gov>

AO Initials	DFA-IGS GENERAL TERMS AND SPECIAL GRANT CONDITIONS
	The applicant assures that federal funds made available under the Edward Byrne Memorial Justice Assistance Grant (JAG) Program will not be used to supplant state and local funds, but will be used to increase the amount of funds that would, in the absence of federal funds, be made available for the activities of this project.
	The subrecipient shall ensure that federal and/or state matching funds are used to supplement existing funds for program activities and must not replace those funds that have been appropriated for the same purpose. Federal and/or state matching funds made available under this grant will be used to increase the amount of funds that would, in the absence of federal and/or state matching funds, be made available for law enforcement activities. If there is a potential presence of supplanting, the subrecipient will supply documentation demonstrating that the reduction in non-Federal resources occurred for reasons other than the receipt or expected receipt of Federal funds. For example, no maintenance and operation costs previously funded by a state, city or county government may be supported with Drug Crime Fund and/or state matching funds. Any federal and/or state matching funds budgeted to supplement existing state and/or local funds due to increased maintenance and operation costs (e.g. fuel, utilities, etc.) shall not be used until all state and/or local funds budgeted for those costs are exhausted.
	The applicant assures that fund accounting, auditing, monitoring, and evaluation procedures as may be necessary to keep such records as the Department of Justice and the Department of Finance and Administration shall be provided to assure fiscal control, proper management, and effective disbursement/reimbursement of funds received under this sub award.
	The applicant assures that it will maintain an appropriate grant administration system to ensure that all terms, conditions and specifications of the grant, including these assurances, are met.
	The applicant assures that it will comply with the <i>OJP Financial Guide</i> in its administration of the grant. The OJP Financial Guide can be accessed online at http://www.ojp.usdoj.gov/financialguide/.
	The applicant assures that it shall maintain such data and information and submit such reports in such form, at such times, and containing such data and information as the as the Department of Justice and the Department of Finance and Administration may require.
	The applicant agrees to use the grant and matching funds only for the purposes stated in this application. Additionally, the applicant agrees that any grant and matching funds approved for personnel for this project will be based on the percent of time the personnel actually devote to the project.



STATE OF ARKANSAS

OFFICE OF INTERGOVERNMENTAL SERVICES

Department of Finance and Administration

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Phone: (501) 682-1074
Fax: (501) 682-5206
<http://www.dfa.arkansas.gov>

The applicant assures that in the event a federal/state court or federal/state administrative agency makes a finding of discrimination after a due process hearing on the grounds of race, color, religion, national origin or sex against a recipient of funds, the recipient will forward a copy of the finding to the Office of Justice Programs, Office of Civil Rights Compliance (OCRC) and the Arkansas Department of Finance and Administration, Office of Intergovernmental Services.

The applicant assures that if it is required to formulate an Equal Employment Opportunity Program (EEO) in accordance with 28 CFR 42.301, et. seq., it should submit a certification to the state that it has a current EEO on file which meets the requirements therein.

The applicant assures that it will comply with the provisions of 28 CFR applicable to grants and cooperative agreements including Part II, Applicability of Office of Management and Budget Circulars; Part 18, Administrative Review Procedure; Part 20, Criminal Justice Information Systems; Part 22, Confidentiality of Identifiable Research and Statistical Information; Part 23, Criminal Intelligence Systems Operating Policies; Part 30, Intergovernmental Review of Department of Justice Programs and Activities; Part 42, Nondiscrimination Equal Employment Opportunity Policies and Procedures; Part 61, Procedures for Implementing the National Environmental Policy Act; and Part 63, Floodplain Management and Wetland Protection Procedures.

The applicant assures that in addition to all other audit requirements, it will allow the Division of Legislative Audit or any other independent or internal auditors of the Department of Finance and Administration to have access to the applicant's records and financial statements;

- (A) as may be necessary for the Department of Finance and Administration to comply with the 1996 Single Audit Act Amendments and Office of Management and Budget (OMB) Circular A-133, and other rules and/or regulations governing financial accounting and auditing guidelines, principles, and procedures; and
- (B) as may be requested by the Department of Finance and Administration to comply with any State or local government rules and/or regulations.

The applicant assures that it will fully participate in the compilation of statistical information as required by state agencies, i.e., providing complete finger print arrest information.

The applicant assures that both federal, state, and matching funds used for this project will be used exclusively to support defined Edward Byrne Memorial Justice Assistance Grant (JAG) Program activities, and will not be used to support any general purpose law enforcement or other activity maintained by the applicant.



STATE OF ARKANSAS

OFFICE OF INTERGOVERNMENTAL SERVICES

Department of Finance and Administration

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<http://www.dfa.arkansas.gov>

	The applicant assures that if the grant funds are used to support a Task Force, the Task Force Board of Directors or 'Control Group' will hold regularly scheduled meetings every two (2) months, and will provide DFA-IGS and the State Drug Director with copies of the agenda and minutes of each meeting.
	The applicant assures that if the grant funds are used to support a Task Force, appropriate and adequate staffing would be maintained for the duration of the project period. For efficiency in project implementation, the State Drug Director's Office highly recommend that appropriate staff include a full-time Drug Task Force Commander (certified law enforcement officer) and a Fiscal Officer regardless if funds are used to pay salaries.
	The applicant assures that if grant funds are used to support a Task Force, the Task Force Administrator/Director/Commander and the Board of Directors will develop and/or maintain a detailed policy and procedures manual for the guidance of task force operations. Copies of the Policy and Procedures Manual as well as updates and revisions shall be forwarded to DFA-IGS and the State Drug Director's Office. <i>(Updates and Revisions shall be submitted when occurred.)</i>
	The applicant assures that all proposals for out of state travel for conference and training will be submitted for approval prior to any expense being incurred.
	If Drug Crime Funds are awarded, the sub-recipient must comply with Act 1086 of 2007: The State Drug Crime Enforcement and Prosecution Grant Fund http://www.arkleg.state.ar.us/assembly/2007/R/Acts/Act1086.pdf
	If applicable, the sub-recipient agrees to prepare and submit an <i>Inventory Report</i> for equipment purchased with federal, state, and/or local matching funds with the <i>1st Quarterly Report</i> . <i>(Updates to Inventory Reporting shall be submitted with quarterly reports.)</i>
	The sub-recipient agrees to submit a Match Report within thirty (30) days of the end of the grant period. Match Reporting Form will be provided. (Current Match is 20%) Completed report forward to DFA-IGS and the State Drug Director's Office.
	The sub-recipient agrees to prepare and submit a <i>Monthly Request for Reimbursement Form</i> (with copies of invoices, cancelled checks, and other documentation of expenditures by line item) by the 15 th day of each month following the month for which subgrant expenditures were paid. A supporting document(s) (Excel Spreadsheet) reporting the allocation of subgrant expenditures between federal, state and/or local funds shall accompany each Request for Reimbursement. Reimbursement requests must be timely. Documentation must be appropriate, legible, and accurate. Sub-recipients are required to submit requests monthly, even if the request is zero. Failure to submit monthly reimbursement requests in a timely manner may impose additional special conditions. Please note and acknowledge the additional items below.



STATE OF ARKANSAS

Department of Finance and Administration

OFFICE OF INTERGOVERNMENTAL SERVICES

1515 West Seventh Street, Suite 400
Post Office Box 8031
Little Rock, Arkansas 72203-8031
Phone: (501) 682-1074
Fax: (501) 682-5206
<http://www.dfa.arkansas.gov>

	a. Grant funds will be used only in accordance with the approved budget. Expenditures incurred or made outside the approved budget line items/categories will be disallowed. b. All lease agreements (i.e. vehicle, storage, office space, and/or rental) must be submitted to DFA-IGS for the file within 60 days of the award date. c. Preapproval is required for out of state travel. Prior to travel, sub-recipient must submit an out-of-state travel request form to IGS for approval no later than 30 days before the travel. IGS will provide the standard form to use. Expense incurred for out of state travel that is not pre-approved by IGS will be disallowed. d. Uniform allowance is limited to the purchase of standard officer uniform, hazardous material uniform and necessary hazmat accessories. Undercover officers may not use the uniform allowance to purchase plain clothes. e. Lease cost for vehicles may not exceed \$600 per month per vehicle. f. Health Insurance premiums and retirement benefits are limited to the maximums paid by the State of Arkansas for its employees. At the time of this award, health insurance maximum is \$450 and retirement maximum rate is 15.32%. g. The purchase of weapons, lethal or non-lethal, and ammunition for those weapons is an unallowable expense. h. The purchase of drug interdiction canine is unallowable. i. The use and fund of "Buy Money" is an unallowable cost under this award. j. Before unique purchases, review federal/state solicitations and be aware of other unallowable items or items that require special conditions for approval.
	The subrecipient agrees to prepare and submit <i>Quarterly Reports in PMT</i> by the 15th of the month following the end of a quarter. Report due dates are October 15th, January 15th, April 15th, and July 15th. Sub-recipients can utilize the Accountability Measures Quarterly Report Tool to assist with quarterly reporting in PMT. Failure to submit quarterly reports in a timely manner may result in suspension of funds.
	The sub-recipient agrees to prepare and submit <i>Monthly Reports</i> by the 10th of each month to both DFA-IGS and the State Drug Director's Office. Failure to submit monthly reports in a timely manner may result in suspension of funds.
	<i>Budget Modifications/Revision Requests</i> must be submitted by the 10th of the month in order for them to be considered for expenditures made during that month. Budget revisions will not be accepted during the last month of the grant period absent extraordinary circumstances. Sub-recipient may request modification of the approved budget to reallocate funds between existing categories. Requests for the addition of new budget categories or line items may not be approved. The final budget request modification/revision must be submitted no later than May 10th. DFA-IGS will only accept four (4) budget modifications request during



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	the awarded project period. This does not include the initial budget modification which is due within 45 days of the Award Date.
	The subrecipient agrees to submit within thirty (30) days of the end of the grant period a <i>Cumulative Financial Report and Annual Narrative Report</i> "MARKED FINAL." Reimbursement requests not submitted by ninety days past the final day of the grant period will be denied payment subject extraordinary circumstances. Absent such circumstances, the federal and/or state funds will be de-obligated from the subaward.
	The sub-recipient agrees to provide notification to IGS of all changes made to the General Project Information, i.e. contact information-name, address, telephone, fax, e-mail, etc. and changes made to authorized officials and/or staffing. The sub-recipient will assure that DFA-IGS has complete and correct contact information for the Contract Official for the grant, the DTF Director/Commander, and the Fiscal Officer. Changes in contact information will include physical address, phone, fax and e-mail information as well as updated Memorandum of Understanding. Replacement or changes of DTF officers/staff who are paid directly by the grant or whose salary is used in whole or in part as match to the grant must also be reported the DFA-IGS.
	The sub-recipient agrees to attend any required DFA-IGS sponsored trainings/meetings as deemed necessary as well as other local trainings/meetings.
	The sub-recipient understands that <u>prior written approval</u> is required for subgrant expenditures from federal and/or state funds budgeted in equipment and travel and training line items. The subrecipient shall submit to IGS a written request to purchase small equipment items not approved in the initial budget and submit a written request for use of funds for out-of-state travel and training. Federal and/or state funds budgeted for these purposes shall neither be obligated nor expended until approved by IGS and/or the Law Enforcement Committee. All approvals will be transmitted in written form to the subrecipient.
	The sub-recipient understands that should it fail to comply with the Federal Award Special Conditions and State Terms and Conditions of this subaward, including civil rights requirements, whether stated in a Federal or State statute, regulation, assurance, application, or notice of award, IGS may take one or more of the following actions, as appropriate in the circumstances: (1) temporarily withhold cash payments pending correction of the deficiency by the recipient; (2) disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance; (3) wholly or partly suspend or terminate the current award; (4) withhold further awards for the project or program and (5) take other remedies that may be legally available.



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DFA-IGS General Terms and Special Grant Conditions: JAG19 Subawards
Signature Page

(Signature of Authorized Official)

Lioneld Jordan

(Print Name)

(Date)

Mayor

(Title)

Willie Newman

(Signature of Fiscal Officer)

Willie Newman

(Print Name)

02/13/2023

(Date)

Fiscal Officer

(Title)

Mike Reynolds

(Signature of Point of Contact-POC)

Mike Reynolds

(Print Name)

2/15/2023

(Date)

Chief of Police

(Title)

BJA FY 22 Edward Byrne Memorial Justice Assistance Program: Federal Award 15PBJA-22-GG-00664-JAGX

Special Conditions

1

Applicability of Part 200 Uniform Requirements

The Uniform Administrative Requirements, Cost Principles, and Audit Requirements in 2 C.F.R. Part 200, as adopted and supplemented by DOJ in 2 C.F.R. Part 2800 (together, the "Part 200 Uniform Requirements") apply to this FY 2021 award from OJP.

The Part 200 Uniform Requirements were first adopted by DOJ on December 26, 2014. If this FY 2021 award supplements funds previously awarded by OJP under the same award number (e.g., funds awarded during or before December 2014), the Part 200 Uniform Requirements apply with respect to all funds under that award number (regardless of the award date, and regardless of whether derived from the initial award or a supplemental award) that are obligated on or after the acceptance date of this FY 2021 award.

For more information and resources on the Part 200 Uniform Requirements as they relate to OJP awards and subawards ("subgrants"), see the OJP website at <https://ojp.gov/funding/Part200UniformRequirements.htm>.

Record retention and access: Records pertinent to the award that the recipient (and any subrecipient ("subgrantee") at any tier) must retain -- typically for a period of 3 years from the date of submission of the final expenditure report (SF 425), unless a different retention period applies -- and to which the recipient (and any subrecipient ("subgrantee") at any tier) must provide access, include performance measurement information, in addition to the financial records, supporting documents, statistical records, and other pertinent records indicated at 2 C.F.R. 200.333.

In the event that an award-related question arises from documents or other materials prepared or distributed by OJP that may appear to conflict with, or differ in some way from, the provisions of the Part 200 Uniform Requirements, the recipient is to contact OJP promptly for clarification.

2

Requirement to report actual or imminent breach of personally identifiable information (PII)

The recipient (and any "subrecipient" at any tier) must have written procedures in place to

respond in the event of an actual or imminent "breach" (OMB M-17-12) if it (or a subrecipient) -- (1) creates, collects, uses, processes, stores, maintains, disseminates, discloses, or disposes of "Personally Identifiable Information (PII)" (2 CFR 200.1) within the scope of an OJP grant-funded program or activity, or (2) uses or operates a "Federal information system" (OMB Circular A-130). The recipient's breach procedures must include a requirement to report actual or imminent breach of PII to an OJP Program Manager no later than 24 hours after an occurrence of an actual breach, or the detection of an imminent breach.

3

Required training for Grant Award Administrator and Financial Manager (N/A)

The Grant Award Administrator and all Financial Managers for this award must have successfully completed an "OJP financial management and grant administration training" by 120 days after the date of the recipient's acceptance of the award. Successful completion of such a training on or after January 1, 2019, will satisfy this condition.

In the event that either the Grant Award Administrator or a Financial Manager for this award changes during the period of performance, the new Grant Award Administrator or Financial Manager must have successfully completed an "OJP financial management and grant administration training" by 120 calendar days after the date the Entity Administrator enters updated Grant Award Administrator or Financial Manager information in JustGrants. Successful completion of such a training on or after January 1, 2019, will satisfy this condition.

A list of OJP trainings that OJP will consider "OJP financial management and grant administration training" for purposes of this condition is available at <https://www.ojp.gov/training/fmts.htm>. All trainings that satisfy this condition include a session on grant fraud prevention and detection.

The recipient should anticipate that OJP will immediately withhold ("freeze") award funds if the recipient fails to comply with this condition. The recipient's failure to comply also may lead OJP to impose additional appropriate conditions on this award.

4

Safe policing and law enforcement subrecipients

If this award is a discretionary award, the recipient agrees that it will not make any subawards to State, local, college, or university law enforcement agencies unless such agencies have been certified by an approved independent credentialing body or have started the certification process. To become certified, law enforcement agencies must meet two mandatory conditions: (1) the agency's use of force policies adhere to all applicable federal, state, and local laws; and (2) the agency's use of force policies prohibit chokeholds

except in situations where use of deadly force is allowed by law. For detailed information on this certification requirement, see <https://cops.usdoj.gov/SafePolicingEO>.

5

Effect of failure to address audit issues

The recipient understands and agrees that the DOJ awarding agency (OJP or OVW, as appropriate) may withhold award funds, or may impose other related requirements, if (as determined by the DOJ awarding agency) the recipient does not satisfactorily and promptly address outstanding issues from audits required by the Part 200 Uniform Requirements (or by the terms of this award), or other outstanding issues that arise in connection with audits, investigations, or reviews of DOJ awards.

6

Requirements of the award; remedies for non-compliance or for materially false statements

The conditions of this award are material requirements of the award. Compliance with any assurances or certifications submitted by or on behalf of the recipient that relate to conduct during the period of performance also is a material requirement of this award.

Limited Exceptions. In certain special circumstances, the U.S. Department of Justice ("DOJ") may determine that it will not enforce, or enforce only in part, one or more requirements otherwise applicable to the award. Any such exceptions regarding enforcement, including any such exceptions made during the period of performance, are (or will be during the period of performance) set out through the Office of Justice Programs ("OJP") webpage entitled "Legal Notices: Special circumstances as to particular award conditions" (ojp.gov/funding/Explore/LegalNotices-AwardReqs.htm), and incorporated by reference into the award.

By signing and accepting this award on behalf of the recipient, the authorized recipient official accepts all material requirements of the award, and specifically adopts, as if personally executed by the authorized recipient official, all assurances or certifications submitted by or on behalf of the recipient that relate to conduct during the period of performance.

Failure to comply with one or more award requirements -- whether a condition set out in full below, a condition incorporated by reference below, or an assurance or certification related to conduct during the award period -- may result in OJP taking appropriate action with respect to the recipient and the award. Among other things, the OJP may withhold award funds, disallow costs, or suspend or terminate the award. DOJ, including OJP, also may take other legal action as appropriate.

Any materially false, fictitious, or fraudulent statement to the federal government related to this award (or concealment or omission of a material fact) may be the subject of criminal prosecution (including under 18 U.S.C. 1001 and/or 1621, and/or 34 U.S.C. 10271-10273), and also may lead to imposition of civil penalties and administrative remedies for false claims or otherwise (including under 31 U.S.C. 3729-3730 and 3801-3812).

Should any provision of a requirement of this award be held to be invalid or unenforceable by its terms, that provision shall first be applied with a limited construction so as to give it the maximum effect permitted by law. Should it be held, instead, that the provision is utterly invalid or -unenforceable, such provision shall be deemed severable from this award.

7

Compliance with DOJ regulations pertaining to civil rights and nondiscrimination - 28 C.F.R. Part 38

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements of 28 C.F.R. Part 38 (as may be applicable from time to time), specifically including any applicable requirements regarding written notice to program beneficiaries and prospective program beneficiaries.

Currently, among other things, 28 C.F.R. Part 38 includes rules that prohibit specific forms of discrimination on the basis of religion, a religious belief, a refusal to hold a religious belief, or refusal to attend or participate in a religious practice. Part 38, currently, also sets out rules and requirements that pertain to recipient and subrecipient ("subgrantee") organizations that engage in or conduct explicitly religious activities, as well as rules and requirements that pertain to recipients and subrecipients that are faith-based or religious organizations.

The text of 28 C.F.R. Part 38 is available via the Electronic Code of Federal Regulations (currently accessible at <https://www.ecfr.gov/cgi-bin/ECFR?page=browse>), by browsing to Title 28-Judicial Administration, Chapter 1, Part 38, under e-CFR "current" data.

8

Compliance with DOJ regulations pertaining to civil rights and nondiscrimination - 28 C.F.R. Part 42

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements of 28 C.F.R. Part 42, specifically including any applicable requirements in Subpart E of 28 C.F.R. Part 42 that relate to an equal employment opportunity program.

9

Compliance with DOJ regulations pertaining to civil rights and nondiscrimination - 28 C.F.R. Part 54

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements of 28 C.F.R. Part 54, which relates to nondiscrimination on the basis of sex in certain "education programs."

10

Compliance with 41 U.S.C. 4712 (including prohibitions on reprisal; notice to employees)

The recipient (and any subrecipient at any tier) must comply with, and is subject to, all applicable provisions of 41 U.S.C. 4712, including all applicable provisions that prohibit, under specified circumstances, discrimination against an employee as reprisal for the employee's disclosure of information related to gross mismanagement of a federal grant, a gross waste of federal funds, an abuse of authority relating to a federal grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal grant.

The recipient also must inform its employees, in writing (and in the predominant native language of the workforce), of employee rights and remedies under 41 U.S.C. 4712.

Should a question arise as to the applicability of the provisions of 41 U.S.C. 4712 to this award, the recipient is to contact the DOJ awarding agency (OJP or OVW, as appropriate) for guidance.

11

Compliance with applicable rules regarding approval, planning, and reporting of conferences, meetings, trainings, and other events

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable laws, regulations, policies, and official DOJ guidance (including specific cost limits, prior approval and reporting requirements, where applicable) governing the use of federal funds for expenses related to conferences (as that term is defined by DOJ), including the provision of food and/or beverages at such conferences, and costs of attendance at such conferences.

Information on the pertinent DOJ definition of conferences and the rules applicable to this award appears in the DOJ Grants Financial Guide (currently, as section 3.10 of "Postaward Requirements" in the "DOJ Grants Financial Guide").

12**Requirement for data on performance and effectiveness under the award**

The recipient must collect and maintain data that measure the performance and effectiveness of work under this award. The data must be provided to OJP in the manner (including within the timeframes) specified by OJP in the program solicitation or other applicable written guidance. Data collection supports compliance with the Government Performance and Results Act (GPRA) and the GPRA Modernization Act of 2010, and other applicable laws.

13**Requirements related to "de minimis" indirect cost rate**

A recipient that is eligible under the Part 200 Uniform Requirements and other applicable law to use the "de minimis" indirect cost rate described in 2 C.F.R. 200.414(f), and that elects to use the "de minimis" indirect cost rate, must advise OJP in writing of both its eligibility and its election, and must comply with all associated requirements in the Part 200 Uniform Requirements. The "de minimis" rate may be applied only to modified total direct costs (MTDC) as defined by the Part 200 Uniform Requirements.

14**Determination of suitability to interact with participating minors**

SCOPE. This condition applies to this award if it is indicated -- in the application for the award (as approved by DOJ)(or in the application for any subaward, at any tier), the DOJ funding announcement (solicitation), or an associated federal statute -- that a purpose of some or all of the activities to be carried out under the award (whether by the recipient, or a subrecipient at any tier) is to benefit a set of individuals under 18 years of age.

The recipient, and any subrecipient at any tier, must make determinations of suitability before certain individuals may interact with participating minors. This requirement applies regardless of an individual's employment status.

The details of this requirement are posted on the OJP web site at <https://ojp.gov/funding/Explore/Interact-Minors.htm> (Award condition: Determination of suitability required, in advance, for certain individuals who may interact with participating minors), and are incorporated by reference here.

15

Requirement to disclose whether recipient is designated "high risk" by a federal grant-making agency outside of DOJ **(N/A)**

If the recipient is designated "high risk" by a federal grant-making agency outside of DOJ, currently or at any time during the course of the period of performance under this award, the recipient must disclose that fact and certain related information to OJP by email at OJP.ComplianceReporting@ojp.usdoj.gov. For purposes of this disclosure, high risk includes any status under which a federal awarding agency provides additional oversight due to the recipient's past performance, or other programmatic or financial concerns with the recipient. The recipient's disclosure must include the following: 1. The federal awarding agency that currently designates the recipient high risk, 2. The date the recipient was designated high risk, 3. The high-risk point of contact at that federal awarding agency (name, phone number, and email address), and 4. The reasons for the high-risk status, as set out by the federal awarding agency.

16

Compliance with DOJ Grants Financial Guide

References to the DOJ Grants Financial Guide are to the DOJ Grants Financial Guide as posted on the OJP website (currently, the "DOJ Grants Financial Guide" available at <https://ojp.gov/financialguide/DOJ/index.htm>), including any updated version that may be posted during the period of performance. The recipient agrees to comply with the DOJ Grants Financial Guide.

17

Encouragement of policies to ban text messaging while driving

Pursuant to Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving," 74 Fed. Reg. 51225 (October 1, 2009), DOJ encourages recipients and subrecipients ("subgrantees") to adopt and enforce policies banning employees from text messaging while driving any vehicle during the course of performing work funded by this award, and to establish workplace safety policies and conduct education, awareness, and other outreach to decrease crashes caused by distracted drivers.

18

Compliance with general appropriations-law restrictions on the use of federal funds (FY 2021)

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable restrictions on the use of federal funds set out in federal appropriations

statutes. Pertinent restrictions, including from various "general provisions" in the Consolidated Appropriations Act, 2021, are set out at <https://ojp.gov/funding/Explore/FY21AppropriationsRestrictions.htm>, and are incorporated by reference here.

Should a question arise as to whether a particular use of federal funds by a recipient (or a subrecipient) would or might fall within the scope of an appropriations-law restriction, the recipient is to contact OJP for guidance, and may not proceed without the express prior written approval of OJP.

19

Potential imposition of additional requirements

The recipient agrees to comply with any additional requirements that may be imposed by the DOJ awarding agency (OJP or OVV, as appropriate) during the period of performance for this award, if the recipient is designated as "high-risk" for purposes of the DOJ high-risk grantee list.

20

Employment eligibility verification for hiring under the award

1. The recipient (and any subrecipient at any tier) must--

A. Ensure that, as part of the hiring process for any position within the United States that is or will be funded (in whole or in part) with award funds, the recipient (or any subrecipient) properly verifies the employment eligibility of the individual who is being hired, consistent with the provisions of 8 U.S.C. 1324a(a)(1).

B. Notify all persons associated with the recipient (or any subrecipient) who are or will be involved in activities under this award of both--

(1) this award requirement for verification of employment eligibility, and

(2) the associated provisions in 8 U.S.C. 1324a(a)(1) that, generally speaking, make it unlawful, in the United States, to hire (or recruit for employment) certain aliens.

C. Provide training (to the extent necessary) to those persons required by this condition to be notified of the award requirement for employment eligibility verification and of the associated provisions of 8 U.S.C. 1324a(a)(1).

D. As part of the recordkeeping for the award (including pursuant to the Part 200 Uniform Requirements), maintain records of all employment eligibility verifications pertinent to compliance with this award condition in accordance with Form I-9 record retention

requirements, as well as records of all pertinent notifications and trainings.

2. Monitoring

The recipient's monitoring responsibilities include monitoring of subrecipient compliance with this condition.

3. Allowable costs

To the extent that such costs are not reimbursed under any other federal program, award funds may be obligated for the reasonable, necessary, and allocable costs (if any) of actions designed to ensure compliance with this condition.

4. Rules of construction

A. Staff Involved in the hiring process

For purposes of this condition, persons "who are or will be involved in activities under this award" specifically includes (without limitation) any and all recipient (or any subrecipient) officials or other staff who are or will be involved in the hiring process with respect to a position that is or will be funded (in whole or in part) with award funds.

B. Employment eligibility confirmation with E-Verify

For purposes of satisfying the requirement of this condition regarding verification of employment eligibility, the recipient (or any subrecipient) may choose to participate in, and use, E-Verify (www.e-verify.gov), provided an appropriate person authorized to act on behalf of the recipient (or subrecipient) uses E-Verify (and follows the proper E-Verify procedures, including in the event of a "Tentative Nonconfirmation" or a "Final Nonconfirmation") to confirm employment eligibility for each hiring for a position in the United States that is or will be funded (in whole or in part) with award funds.

C. "United States" specifically includes the District of Columbia, Puerto Rico, Guam, the Virgin Islands of the United States, and the Commonwealth of the Northern Mariana Islands.

D. Nothing in this condition shall be understood to authorize or require any recipient, any subrecipient at any tier, or any person or other entity, to violate any federal law, including any applicable civil rights or nondiscrimination law.

E. Nothing in this condition, including in paragraph 4.B., shall be understood to relieve any recipient, any subrecipient at any tier, or any person or other entity, of any obligation otherwise imposed by law, including 8 U.S.C. 1324a(a)(1).

Questions about E-Verify should be directed to DHS. For more information about E-Verify

visit the E-Verify website (<https://www.e-verify.gov/>) or email E-Verify at E-Verify@dhs.gov. E-Verify employer agents can email E-Verify at E-VerifyEmployerAgent@dhs.gov.

Questions about the meaning or scope of this condition should be directed to OJP, before award acceptance.

21

Restrictions and certifications regarding non-disclosure agreements and related matters

No recipient or subrecipient ("subgrantee") under this award, or entity that receives a procurement contract or subcontract with any funds under this award, may require any employee or contractor to sign an internal confidentiality agreement or statement that prohibits or otherwise restricts, or purports to prohibit or restrict, the reporting (in accordance with law) of waste, fraud, or abuse to an investigative or law enforcement representative of a federal department or agency authorized to receive such information.

The foregoing is not intended, and shall not be understood by the agency making this award, to contravene requirements applicable to Standard Form 312 (which relates to classified information), Form 4414 (which relates to sensitive compartmented information), or any other form issued by a federal department or agency governing the nondisclosure of classified information.

1. In accepting this award, the recipient--

a. represents that it neither requires nor has required internal confidentiality agreements or statements from employees or contractors that currently prohibit or otherwise currently restrict (or purport to prohibit or restrict) employees or contractors from reporting waste, fraud, or abuse as described above; and

b. certifies that, if it learns or is notified that it is or has been requiring its employees or contractors to execute agreements or statements that prohibit or otherwise restrict (or purport to prohibit or restrict), reporting of waste, fraud, or abuse as described above, it will immediately stop any further obligations of award funds, will provide prompt written notification to the federal agency making this award, and will resume (or permit resumption of) such obligations only if expressly authorized to do so by that agency.

2. If the recipient does or is authorized under this award to make subawards ("subgrants"), procurement contracts, or both--

a. it represents that--

(1) it has determined that no other entity that the recipient's application proposes may or will receive award funds (whether through a subaward ("subgrant"), procurement contract, or subcontract under a procurement contract) either requires or has required internal

confidentiality agreements or statements from employees or contractors that currently prohibit or otherwise currently restrict (or purport to prohibit or restrict) employees or contractors from reporting waste, fraud, or abuse as described above; and

(2) it has made appropriate inquiry, or otherwise has an adequate factual basis, to support this representation; and

b. it certifies that, if it learns or is notified that any subrecipient, contractor, or subcontractor entity that receives funds under this award is or has been requiring its employees or contractors to execute agreements or statements that prohibit or otherwise restrict (or purport to prohibit or restrict), reporting of waste, fraud, or abuse as described above, it will immediately stop any further obligations of award funds to or by that entity, will provide prompt written notification to the federal agency making this award, and will resume (or permit resumption of) such obligations only if expressly authorized to do so by that agency.

22

Reclassification of various statutory provisions to a new Title 34 of the United States Code

On September 1, 2017, various statutory provisions previously codified elsewhere in the U.S. Code were editorially reclassified (that is, moved and renumbered) to a new Title 34, entitled "Crime Control and Law Enforcement." The reclassification encompassed a number of statutory provisions pertinent to OJP awards (that is, OJP grants and cooperative agreements), including many provisions previously codified in Title 42 of the U.S. Code.

Effective as of September 1, 2017, any reference in this award document to a statutory provision that has been reclassified to the new Title 34 of the U.S. Code is to be read as a reference to that statutory provision as reclassified to Title 34. This rule of construction specifically includes references set out in award conditions, references set out in material incorporated by reference through award conditions, and references set out in other award requirements.

23

OJP Training Guiding Principles

Any training or training materials that the recipient -- or any subrecipient ("subgrantee") at any tier -- develops or delivers with OJP award funds must adhere to the OJP Training Guiding Principles for Grantees and Subgrantees, available at <https://ojp.gov/funding/Implement/TrainingPrinciplesForGrantees-Subgrantees.htm>.

24

All subawards ("subgrants") must have specific federal authorization

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements for authorization of any subaward. This condition applies to agreements that -- for purposes of federal grants administrative requirements -- OJP considers a "subaward" (and therefore does not consider a procurement "contract").

The details of the requirement for authorization of any subaward are posted on the OJP web site at <https://ojp.gov/funding/Explore/SubawardAuthorization.htm> (Award condition: All subawards ("subgrants") must have specific federal authorization), and are incorporated by reference here.

25

Requirements related to System for Award Management and Universal Identifier Requirements

The recipient must comply with applicable requirements regarding the System for Award Management (SAM), currently accessible at <https://www.sam.gov/>. This includes applicable requirements regarding registration with SAM, as well as maintaining the currency of information in SAM.

The recipient also must comply with applicable restrictions on subawards ("subgrants") to first-tier subrecipients (first-tier "subgrantees"), including restrictions on subawards to entities that do not acquire and provide (to the recipient) the unique entity identifier required for SAM registration.

The details of the recipient's obligations related to SAM and to unique entity identifiers are posted on the OJP web site at <https://ojp.gov/funding/Explore/SAM.htm> (Award condition: System for Award Management (SAM) and Universal Identifier Requirements), and are incorporated by reference here.

This condition does not apply to an award to an individual who received the award as a natural person (i.e., unrelated to any business or non-profit organization that he or she may own or operate in his or her name).

26

Restrictions on "lobbying"

In general, as a matter of federal law, federal funds awarded by OJP may not be used by the recipient, or any subrecipient ("subgrantee") at any tier, either directly or indirectly, to support or oppose the enactment, repeal, modification, or adoption of any law, regulation, or policy, at any level of government. See 18 U.S.C. 1913. (There may be exceptions if an

applicable federal statute specifically authorizes certain activities that otherwise would be barred by law.)

Another federal law generally prohibits federal funds awarded by OJP from being used by the recipient, or any subrecipient at any tier, to pay any person to influence (or attempt to influence) a federal agency, a Member of Congress, or Congress (or an official or employee of any of them) with respect to the awarding of a federal grant or cooperative agreement, subgrant, contract, subcontract, or loan, or with respect to actions such as renewing, extending, or modifying any such award. See 31 U.S.C. 1352. Certain exceptions to this law apply, including an exception that applies to Indian tribes and tribal organizations.

Should any question arise as to whether a particular use of federal funds by a recipient (or subrecipient) would or might fall within the scope of these prohibitions, the recipient is to contact OJP for guidance, and may not proceed without the express prior written approval of OJP.

27

Specific post-award approval required to use a noncompetitive approach in any procurement contract that would exceed \$250,000

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements to obtain specific advance approval to use a noncompetitive approach in any procurement contract that would exceed the Simplified Acquisition Threshold (currently, \$250,000). This condition applies to agreements that -- for purposes of federal grants administrative requirements -- OJP considers a procurement "contract" (and therefore does not consider a subaward).

The details of the requirement for advance approval to use a noncompetitive approach in a procurement contract under an OJP award are posted on the OJP web site at <https://ojp.gov/funding/Explore/NoncompetitiveProcurement.htm> (Award condition: Specific post-award approval required to use a noncompetitive approach in a procurement contract (if contract would exceed \$250,000)), and are incorporated by reference here.

28

Requirements pertaining to prohibited conduct related to trafficking in persons (including reporting requirements and OJP authority to terminate award)

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements (including requirements to report allegations) pertaining to prohibited conduct related to the trafficking of persons, whether on the part of recipients, subrecipients ("subgrantees"), or individuals defined (for purposes of this condition) as "employees" of the recipient or of any subrecipient.

The details of the recipient's obligations related to prohibited conduct related to trafficking in persons are posted on the OJP web site at <https://ojp.gov/funding/Explore/ProhibitedConduct-Trafficking.htm> (Award condition: Prohibited conduct by recipients and subrecipients related to trafficking in persons (including reporting requirements and OJP authority to terminate award)), and are incorporated by reference here.

29

Requirement to report potentially duplicative funding

If the recipient currently has other active awards of federal funds, or if the recipient receives any other award of federal funds during the period of performance for this award, the recipient promptly must determine whether funds from any of those other federal awards have been, are being, or are to be used (in whole or in part) for one or more of the identical cost items for which funds are provided under this award. If so, the recipient must promptly notify the DOJ awarding agency (OJP or OVW, as appropriate) in writing of the potential duplication, and, if so requested by the DOJ awarding agency, must seek a budget-modification or change-of-project-scope Grant Award Modification (GAM) to eliminate any inappropriate duplication of funding.

30

Reporting potential fraud, waste, and abuse, and similar misconduct

The recipient, and any subrecipients ("subgrantees") at any tier, must promptly refer to the DOJ Office of the Inspector General (OIG) any credible evidence that a principal, employee, agent, subrecipient, contractor, subcontractor, or other person has, in connection with funds under this award-- (1) submitted a claim that violates the False Claims Act; or (2) committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct.

Potential fraud, waste, abuse, or misconduct involving or relating to funds under this award should be reported to the OIG by--(1) online submission accessible via the OIG webpage at <https://oig.justice.gov/hotline/contact-grants.htm> (select "Submit Report Online"); (2) mail directed to: U.S. Department of Justice, Office of the Inspector General, Investigations Division, ATTN: Grantee Reporting, 950 Pennsylvania Ave., NW, Washington, DC 20530; and/or (3) by facsimile directed to the DOJ OIG Investigations Division (Attn: Grantee Reporting) at (202) 616-9881 (fax).

Additional information is available from the DOJ OIG website at <https://oig.justice.gov/hotline>.

31**FFATA reporting: Subawards and executive compensation (N/A)**

The recipient must comply with applicable requirements to report first-tier subawards ("subgrants") of \$30,000 or more and, in certain circumstances, to report the names and total compensation of the five most highly compensated executives of the recipient and first-tier subrecipients (first-tier "subgrantees") of award funds. The details of recipient obligations, which derive from the Federal Funding Accountability and Transparency Act of 2006 (FFATA), are posted on the OJP web site at <https://ojp.gov/funding/Explore/FFATA.htm> (Award condition: Reporting Subawards and Executive Compensation), and are incorporated by reference here.

This condition, including its reporting requirement, does not apply to-- (1) an award of less than \$30,000, or (2) an award made to an individual who received the award as a natural person (i.e., unrelated to any business or non-profit organization that he or she may own or operate in his or her name).

32**Cooperating with OJP Monitoring**

The recipient agrees to cooperate with OJP monitoring of this award pursuant to OJP's guidelines, protocols, and procedures, and to cooperate with OJP (including the grant manager for this award and the Office of Chief Financial Officer (OCFO)) requests related to such monitoring, including requests related to desk reviews and/or site visits. The recipient agrees to provide to OJP all documentation necessary for OJP to complete its monitoring tasks, including documentation related to any subawards made under this award. Further, the recipient agrees to abide by reasonable deadlines set by OJP for providing the requested documents. Failure to cooperate with OJP's monitoring activities may result in actions that affect the recipient's DOJ awards, including, but not limited to: withholdings and/or other restrictions on the recipient's access to award funds; referral to the DOJ OIG for audit review; designation of the recipient as a DOJ High Risk grantee; or termination of an award(s).

33**Required monitoring of subawards**

The recipient must monitor subawards under this award in accordance with all applicable statutes, regulations, award conditions, and the DOJ Grants Financial Guide, and must include the applicable conditions of this award in any subaward. Among other things, the recipient is responsible for oversight of subrecipient spending and monitoring of specific outcomes and benefits attributable to use of award funds by subrecipients. The recipient agrees to submit, upon request, documentation of its policies and procedures for monitoring of subawards under this award.

34**Use of program income (N/A)**

Program income (as defined in the Part 200 Uniform Requirements) must be used in accordance with the provisions of the Part 200 Uniform Requirements. Program income earnings and expenditures both must be reported on the quarterly Federal Financial Report, SF 425.

35**Justice Information Sharing**

Information sharing projects funded under this award must comply with DOJ's Global Justice Information Sharing Initiative (Global) guidelines. The recipient (and any subrecipient at any tier) must conform to the Global Standards Package (GSP) and all constituent elements, where applicable, as described at: [https:// it.ojp.gov/gsp_grantcondition](https://it.ojp.gov/gsp_grantcondition). The recipient (and any subrecipient at any tier) must document planned approaches to information sharing and describe compliance with the GSP and appropriate privacy policy that protects shared information, or provide detailed justification for why an alternative approach is recommended.

36**Avoidance of duplication of networks**

To avoid duplicating existing networks or IT systems in any initiatives funded by BJA for law enforcement information sharing systems which involve interstate connectivity between jurisdictions, such systems shall employ, to the extent possible, existing networks as the communication backbone to achieve interstate connectivity, unless the recipient can demonstrate to the satisfaction of BJA that this requirement would not be cost effective or would impair the functionality of an existing or proposed IT system.

37**Compliance with 28 C.F.R. Part 23**

With respect to any information technology system funded or supported by funds under this award, the recipient (and any subrecipient at any tier) must comply with 28 C.F.R. Part 23, Criminal Intelligence Systems Operating Policies, if OJP determines this regulation to be applicable. Should OJP determine 28 C.F.R. Part 23 to be applicable, OJP may, at its discretion, perform audits of the system, as per the regulation. Should any violation of 28

C.F.R. Part 23 occur, the recipient may be fined as per 34 U.S.C. 10231(c)-(d). The recipient may not satisfy such a fine with federal funds.

38

Protection of human research subjects

The recipient (and any subrecipient at any tier) must comply with the requirements of 28 C.F.R. Part 46 and all OJP policies and procedures regarding the protection of human research subjects, including obtainment of Institutional Review Board approval, if appropriate, and subject informed consent.

39

Confidentiality of data

The recipient (and any subrecipient at any tier) must comply with all confidentiality requirements of 34 U.S.C. 10231 and 28 C.F.R. Part 22 that are applicable to collection, use, and revelation of data or information. The recipient further agrees, as a condition of award approval, to submit a Privacy Certificate that is in accord with requirements of 28 C.F.R. Part 22 and, in particular, 28 C.F.R. 22.23.

40

Law enforcement task forces - required training

Within 120 days of award acceptance, each current member of a law enforcement task force funded with award funds who is a task force commander, agency executive, task force officer, or other task force member of equivalent rank, must complete required online (internet-based) task force training. Additionally, all future task force members must complete this training once during the period of performance for this award, or once every four years if multiple OJP awards include this requirement.

The required training is available free of charge online through the BJA-funded Center for Task Force Integrity and Leadership (www.ctfli.org). The training addresses task force effectiveness, as well as other key issues including privacy and civil liberties/rights, task force performance measurement, personnel selection, and task force oversight and accountability. If award funds are used to support a task force, the recipient must compile and maintain a task force personnel roster, along with course completion certificates.

Additional information regarding the training is available through BJA's web site and the Center for Task Force Integrity and Leadership (www.ctfli.org).

41**Justification of consultant rate**

Approval of this award does not indicate approval of any consultant rate in excess of \$650 per day. A detailed justification must be submitted to and approved by the OJP program office prior to obligation or expenditure of such funds.

42**"Methods of Administration" - monitoring compliance with civil rights laws and nondiscrimination provisions**

The recipient's monitoring responsibilities include monitoring of subrecipient compliance with applicable federal civil rights laws and nondiscrimination provisions. Within 90 days of the date of award acceptance, the recipient must submit to OJP's Office for Civil Rights (at CivilRightsMOA@usdoj.gov) written Methods of Administration ("MOA") for subrecipient monitoring with respect to civil rights requirements. In addition, upon request by OJP (or by another authorized federal agency), the recipient must make associated documentation available for review.

The details of the recipient's obligations related to Methods of Administration are posted on the OJP web site at <https://ojp.gov/funding/Explore/StateMethodsAdmin-FY2017update.htm> (Award condition: "Methods of Administration" - Requirements applicable to States (FY 2017 Update)), and are incorporated by reference here.

43

The recipient understands that, in accepting this award, the Authorized Representative declares and certifies, among other things, that he or she possesses the requisite legal authority to accept the award on behalf of the recipient entity and, in so doing, accepts (or adopts) all material requirements that relate to conduct throughout the period of performance under this award. The recipient further understands, and agrees, that it will not assign anyone to the role of Authorized Representative during the period of performance under the award without first ensuring that the individual has the requisite legal authority.

44**Compliance with National Environmental Policy Act and related statutes**

Upon request, the recipient (and any subrecipient at any tier) must assist BJA in complying

with the National Environmental Policy Act (NEPA), the National Historic Preservation Act, and other related federal environmental impact analyses requirements in the use of these award funds, either directly by the recipient or by a subrecipient. Accordingly, the recipient agrees to first determine if any of the following activities will be funded by the grant, prior to obligating funds for any of these purposes. If it is determined that any of the following activities will be funded by the award, the recipient agrees to contact BJA.

The recipient understands that this condition applies to new activities as set out below, whether or not they are being specifically funded with these award funds. That is, as long as the activity is being conducted by the recipient, a subrecipient, or any third party, and the activity needs to be undertaken in order to use these award funds, this condition must first be met. The activities covered by this condition are:

- a. New construction;
- b. Minor renovation or remodeling of a property located in an environmentally or historically sensitive area, including properties located within a 100-year flood plain, a wetland, or habitat for endangered species, or a property listed on or eligible for listing on the National Register of Historic Places;
- c. A renovation, lease, or any proposed use of a building or facility that will either (a) result in a change in its basic prior use or (b) significantly change its size;
- d. Implementation of a new program involving the use of chemicals other than chemicals that are (a) purchased as an incidental component of a funded activity and (b) traditionally used, for example, in office, household, recreational, or education environments; and
- e. Implementation of a program relating to clandestine methamphetamine laboratory operations, including the identification, seizure, or closure of clandestine methamphetamine laboratories.

The recipient understands and agrees that complying with NEPA may require the preparation of an Environmental Assessment and/or an Environmental Impact Statement, as directed by BJA. The recipient further understands and agrees to the requirements for implementation of a Mitigation Plan, as detailed at <https://bja.gov/Funding/nepa.html>, for programs relating to methamphetamine laboratory operations.

Application of This Condition to Recipient's Existing Programs or Activities: For any of the recipient's or its subrecipients' existing programs or activities that will be funded by these award funds, the recipient, upon specific request from BJA, agrees to cooperate with BJA in any preparation by BJA of a national or program environmental assessment of that funded program or activity.

45**Establishment of trust fund (N/A)**

If award funds are being drawn down in advance, the recipient (or a subrecipient, with respect to a subaward) is required to establish a trust fund account. Recipients (and subrecipients) must maintain advance payments of federal awards in interest-bearing accounts, unless regulatory exclusions apply (2 C.F.R. 200.305(b)(8)). The trust fund, including any interest, may not be used to pay debts or expenses incurred by other activities beyond the scope of the Edward Byrne Memorial Justice Assistance Grant Program (JAG). The recipient also agrees to obligate the award funds in the trust fund (including any interest earned) during the period of performance for the award and expend within 90 days thereafter. Any unobligated or unexpended funds, including interest earned, must be returned to OJP at the time of closeout.

46**Required data on law enforcement agency training**

Any law enforcement agency receiving direct or sub-awarded funding from this JAG award must submit quarterly accountability metrics data related to training that officers have received on the use of force, racial and ethnic bias, de-escalation of conflict, and constructive engagement with the public.

47 (N/A)

All State and Local JAG recipients must submit quarterly Federal Financial Reports (SF-425). Additionally, State JAG and Local JAG Category Two (\$25K or more) must submit semi-annual performance reports through JustGrants and Local JAG Category One (Less than \$25K) must submit annual performance reports through JustGrants. Consistent with the Department's responsibilities under the Government Performance and Results Act (GPRA) and the GPRA Modernization Act of 2010, the recipient must provide data that measure the results of its work. The recipient must submit quarterly performance metrics reports through BJA's Performance Measurement Tool (PMT) website (www.bjaperformancetools.org). For more detailed information on reporting and other JAG requirements, refer to the JAG reporting requirements webpage. Failure to submit required JAG reports by established deadlines may result in the freezing of grant funds and future High Risk designation.

48**Expenditures prohibited without waiver**

No funds under this award may be expended on the purchase of items prohibited by the JAG program statute, unless, as set forth at 34 U.S.C. 10152, the BJA Director certifies that extraordinary and exigent circumstances exist, making such expenditures essential to the maintenance of public safety and good order.

49**Authorization to obligate (federal) award funds to reimburse certain project costs incurred on or after October 1, 2020**

The recipient may obligate (federal) award funds only after the recipient makes a valid acceptance of the award. As of the first day of the period of performance for the award (October 1, 2020), however, the recipient may choose to incur project costs using non-federal funds, but any such project costs are incurred at the recipient's risk until, at a minimum-- (1) the recipient makes a valid acceptance of the award, and (2) all applicable withholding conditions are removed by OJP (via an Award Condition Modification (ACM)). (A withholding condition is a condition in the award document that precludes the recipient from obligating, expending, or drawing down all or a portion of the award funds until the condition is removed.)

Except to the extent (if any) that an award condition expressly precludes reimbursement of project costs incurred "at-risk," if and when the recipient makes a valid acceptance of this award and OJP removes each applicable withholding condition through an Award Condition Modification (ACM), the recipient is authorized to obligate (federal) award funds to reimburse itself for project costs incurred "at-risk" earlier during the period of performance (such as project costs incurred prior to award acceptance or prior to removal of an applicable withholding condition), provided that those project costs otherwise are allowable costs under the award.

50

If award funds are used for DNA testing of evidentiary materials, any resulting eligible DNA profiles must be uploaded to the Combined DNA Index System ("CODIS," the DNA database operated by the FBI) by a government DNA laboratory with access to CODIS. No profiles generated under this award may be entered or uploaded into any non-governmental DNA database without prior express written approval from BJA. Award funds may not be used for the purchase of DNA equipment and supplies unless the resulting DNA profiles may be accepted for entry into CODIS. Booking agencies should work with their state CODIS agency to ensure all requirements are met for participation in Rapid DNA (see National Rapid DNA Booking Operational Procedures Manual).

51**Submission of eligible records relevant to the National Instant Background Check System**

Consonant with federal statutes that pertain to firearms and background checks -- including 18 U.S.C. 922 and 34 U.S.C. ch. 409 -- if the recipient (or any subrecipient at any tier) uses this award to fund (in whole or in part) a specific project or program (such as a law enforcement, prosecution, or court program) that results in any court dispositions, information, or other records that are "eligible records" (under federal or State law) relevant to the National Instant Background Check System (NICS), or that has as one of its purposes the establishment or improvement of records systems that contain any court dispositions, information, or other records that are "eligible records" (under federal or State law) relevant to the NICS, the recipient (or subrecipient, if applicable) must ensure that all such court dispositions, information, or other records that are "eligible records" (under federal or State law) relevant to the NICS are promptly made available to the NICS or to the "State" repository/database that is electronically available to (and accessed by) the NICS, and -- when appropriate -- promptly must update, correct, modify, or remove such NICS-relevant "eligible records".

In the event of minor and transitory non-compliance, the recipient may submit evidence to demonstrate diligent monitoring of compliance with this condition (including subrecipient compliance). DOJ will give great weight to any such evidence in any express written determination regarding this condition.

52**Prohibition on use of award funds for match under BVP program**

JAG funds may not be used as the 50% match for purposes of the DOJ Bulletproof Vest Partnership (BVP) program.

53**Certification of body armor "mandatory wear" policies**

If recipient uses funds under this award to purchase body armor, the recipient must submit a signed certification that law enforcement agencies receiving body armor purchased with funds from this award have a written "mandatory wear" policy in effect. The recipient must keep signed certifications on file for any subrecipients planning to utilize funds from this award for ballistic-resistant and stab-resistant body armor purchases. This policy must be in place for at least all uniformed officers before any funds from this award may be used by an agency for body armor. There are no requirements regarding the nature of the policy other than it be a mandatory wear policy for all uniformed officers while on duty.

54**Body armor - compliance with NIJ standards and other requirements**

Ballistic-resistant and stab-resistant body armor purchased with JAG award funds may be purchased at any threat level, make or model, from any distributor or manufacturer, as long as the body armor has been tested and found to comply with applicable National Institute of Justice ballistic or stab standards and is listed on the NIJ Compliant Body Armor Model List (<https://nij.gov/topics/technology/body-armor/Pages/compliant-ballistic-armor.aspx>). In addition, ballistic-resistant and stab-resistant body armor purchased must be made in the United States and must be uniquely fitted, as set forth in 34 U.S.C. 10202(c)(1)(A). The latest NIJ standard information can be found here: <https://nij.gov/topics/technology/body-armor/pages/safety-initiative.aspx>.

55**Recipient integrity and performance matters: Requirement to report information on certain civil, criminal, and administrative proceedings to SAM and FAPIIS**

The recipient must comply with any and all applicable requirements regarding reporting of information on civil, criminal, and administrative proceedings connected with (or connected to the performance of) either this OJP award or any other grant, cooperative agreement, or procurement contract from the federal government. Under certain circumstances, recipients of OJP awards are required to report information about such proceedings, through the federal System for Award Management (known as "SAM"), to the designated federal integrity and performance system (currently, "FAPIIS").

The details of recipient obligations regarding the required reporting (and updating) of information on certain civil, criminal, and administrative proceedings to the federal designated integrity and performance system (currently, "FAPIIS") within SAM are posted on the OJP web site at <https://ojp.gov/funding/FAPIIS.htm> (Award condition: Recipient Integrity and Performance Matters, including Recipient Reporting to FAPIIS), and are incorporated by reference here.

56**BJA- JAG - Withholding of Funds for Chief Executive Certification**

Withholding of funds: Required certification from the chief executive of the applicant government

The recipient may not expend or draw down any award funds until the recipient submits the required "Certifications and Assurances by the Chief Executive of the Applicant

Government," properly-executed (as determined by OJP), and an Award Condition Modification has been issued to remove this condition.

57

BJA- JAG - SORNA Appeal Limits

The recipient acknowledges the final agency decision made by DOJ that recipient's jurisdiction did not substantially implement the Sex Offender Registration and Notification Act (Public Law 109-248, "SORNA") before the deadline, and understands that, as a result of that final agency decision, the amount of this JAG award was reduced, pursuant to 34 U.S.C. 20927. By accepting this specific award, the recipient voluntarily agrees that if it elects to file a judicial appeal of that final agency decision, which was integral in determining this particular funding amount, no such appeal may commence more than 6 months after the date of acceptance of this award.



MEETING OF MARCH 21, 2023

TO: Mayor Jordan and City Council
THRU: Susan Norton, Chief of Staff
FROM: Waylon Abernathy, Bond Projects & Construction Dir
DATE:
SUBJECT: **Approval of Lease Agreement with Fayetteville Advertising and Promotion Commission for the Town Center and Town Center Parking Deck.**

RECOMMENDATION:

Staff recommends approval of the Lease Agreement between the City of Fayetteville and the Fayetteville Advertising and Promotion Commission for the Town Center and Town Center Parking Deck.

BACKGROUND:

Resolution 120-98 approved a lease agreement between the City of Fayetteville and the Advertising and Promotion Commission of the City of Fayetteville for the Town Center.

Resolution 155-15 approved a lease agreement between the City of Fayetteville and the Advertising and Promotion Commission of the City of Fayetteville for the Town Center Parking Deck.

DISCUSSION:

This lease agreement incorporates terms of the 1998 Town Center Lease agreement, the 2015 Town Center parking deck agreement, and some new terms for both.

Those include a 10 year renewable term, City's commitment to replace Building Systems after Life Cycle, all built in furniture to remain the City's, Town Center to provide the City with Maintenance Records, reasonable rates charged for parking, and parking equipment purchased shall be in keeping with the City's overall parking masterplan.

An assessment has been performed by Facilities Management, and found that the building has been well maintained, with some major systems replaced. The City's Facilities team will provide a Capital program for system replacement over the next 5 years to include Fire Alarm, Pumps, and Elevator upgrades.

BUDGET/STAFF IMPACT:

Future system replacements will be included in the 5-year capital plan.

ATTACHMENTS: SRF TC Lease Agreement, FTC_COF_Lease2023

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 #: 2023-499

Approval of Lease Agreement with Fayetteville Advertising and Promotion Commission for the Town Center and Town Center Parking Deck.

A RESOLUTION TO APPROVE A 10 YEAR LEASE AGREEMENT WITH THE FAYETTEVILLE ADVERTISING AND PROMOTION COMMISSION FOR THE TOWN CENTER AND TOWN CENTER PARKING DECK

WHEREAS, the Fayetteville Advertising and Promotion Commission has leased the Town Center since 1998 and the Town Center Parking Deck since 2015; and

WHEREAS, the Advertising and Promotion Commission's 1998 lease agreement with the City required the A & P Commission to "promptly at no cost and expense to Lessor (City) make or cause to be made all necessary repairs, interior or exterior, structural and non-structural, foreseen as well as unforeseen to such improvements (Town Center)"; and

WHEREAS, the City of Fayetteville will, under this new Lease Agreement, be responsible for the refurbishing or replacement of most mechanical and structural components of the Town Center; and

WHEREAS, the City of Fayetteville believes it is in the best interests of the citizens of Fayetteville for the A& Commission to continue to manage the Town Center and Town Center Parking Deck pursuant to the terms of the new Lease Agreement.

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 the attached Lease Agreement and authorizes Mayor Jordan to sign this Lease Agreement with the Fayetteville Advertising and Promotion Commission for the Town Center and Town Center Parking Deck.

City of Fayetteville Staff Review Form

2023-499

Item ID

3/21/2023

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

Wade Abernathy

2/28/2023

FACILITIES MANAGEMENT (140)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Lease Agreement between the City of Fayetteville and the Fayetteville Advertising and Promotion Commission for the Town Center and Town Center Parking Deck.

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 # 120-98, 155-15

Change Order Number:

Approval Date:

Original Contract Number:

Comments:

LEASE AGREEMENT

This Lease Agreement ("Lease Agreement") is by and between the CITY OF FAYETTEVILLE, ARKANSAS ("Fayetteville" or "City"), and the FAYETTEVILLE ADVERTISING AND PROMOTION COMMISSION {which is a governmental agency established by Ordinance No. 2310 of the City of Fayetteville pursuant to A.C.A. §26-75-605} ("A&P Commission" or the "Commission") who jointly state and agree that:

1. WHEREAS, Fayetteville is a duly organized and existing municipality, a city of the first class, under the laws of the State of Arkansas with full and lawful power and authority to enter into this Lease Agreement; and
2. WHEREAS, the A&P Commission is authorized under the laws of the State of Arkansas to enter into this Lease Agreement and to perform all covenants and obligations on its part and to be performed under and pursuant to this Lease Agreement; and
3. WHEREAS, Fayetteville owns the Fayetteville Town Center as a multi-purpose civic center for meetings, conventions, exhibitions, entertainment events, related uses, and parking (the "Town Center"); and
4. WHEREAS, Fayetteville and the A&P Commission entered into a Lease Agreement dated September 15, 1998, but the original term of that 22-year lease has now ended; and
5. WHEREAS, Fayetteville and A&P Commission entered into an agreement and two amendments to that agreement for the operation of the parking deck at the Town Center, but that twice amended agreement's term has now ended; and
6. WHEREAS, A&P Commission is willing and able to continue successfully operating and managing the Town Center and its parking deck for the purpose of fulfilling their statutory purpose of advertising and promoting the City and for maintaining and operating a convention center and/or

tourist promotion facility for the City; and

7. WHEREAS, Fayetteville is willing to continue leasing the Town Center and its parking deck to the A&P Commission and believes it is in the best interests of the citizens of Fayetteville, Arkansas for the A&P Commission to manage the Town Center on behalf of the City pursuant to the terms and for the consideration herein stated.

NOW, THEREFORE, for the valuable consideration of the mutual benefits, commitments, and covenants herein contained, the City of Fayetteville and the Advertising and Promotion Commission agree as follows:

ARTICLE I

DEFINITIONS

SECTION 101. In addition to the words and terms elsewhere defined in this Lease Agreement, the following words and terms as used in this Lease Agreement shall have the following meanings unless the context clearly indicates a different meaning or intent:

"Full Insurable Value" means such value as shall be determined from time to time at the request of Fayetteville or the A&P Commission but not more than once in every forty-eight (48) months by one of the insurers selected by Fayetteville.

"Leased Premises" means the lands, buildings, improvements, and facilities covered by the Lease Agreement and defined in Section 201 hereof.

ARTICLE II

DEMISING CLAUSES, DURATION OF LEASE TERM, AND CONSIDERATION

SECTION 201. For and in consideration of the covenants, promises, and agreements required, referred to, or contained herein on the part of the A&P Commission to be

fulfilled, kept, and performed, the City of Fayetteville, as owner and landlord, agrees to and does hereby lease to the A&P Commission, and the A&P Commission, as tenant, agrees to, and does hereby lease the Fayetteville Town Center, subject to the terms, conditions and provisions of this Lease Agreement. The following are hereinafter referred to as the "Leased Premises":

- (a) The lands situation in Washington County, Arkansas, described in Exhibit A attached hereto;
- (b) The buildings, structures, and other improvements now or at any time hereafter erected and installed on these lands; and
- (c) All accretions, easements, rights of way and appurtenances belonging to these lands and/or the improvements described in (a) and (b) above.

TO HAVE AND TO HOLD possession of the Leased Premises unto the A&P Commission for the term of this Lease Agreement as hereafter set forth.

Section 202. The Term of this Lease Agreement shall commence upon the date that both of the proper representatives of the City and the A&P Commission have with proper authority signed this Lease Agreement and shall run for a period of ten (10) years ("Term").

Section 203. Each party shall notify the other party at least six (6) months prior to the end of the Term this Lease of its intent to renew or end this Lease Agreement. If both parties fail to provide such notice, the City and Commission agree that this Lease Agreement shall not terminate at the end of the term, but shall renew for successive six (6) month periods until proper notice has been provided.

Section 204. The Advertising and Promotion Commission covenants, as partial consideration for this Lease Agreement, to properly manage and maintain the Leased Premises and to pay all expenses, liabilities, obligations and other payments of whatever nature which the A&P Commission has agreed to pay or assume under the provisions of this Lease Agreement.

Within three months after the end of the A&P Commission's fiscal year, the Commission shall deliver to the Mayor's Office a short review of the previous year's operation, revenues and expenditures by the Commission related to the Premises (Town Center and Parking Deck) which shall include any known or projected expenses for the needed repair or replacement of major building components or systems that the City of Fayetteville may be responsible to fund or partially fund in the coming year.

ARTICLE III

INSURANCE

Section 301.

A. At all times during the term, Fayetteville shall at Fayetteville's sole cost and expense keep the Leased Premises and the furniture, fixtures and equipment insured:

(1) Against the perils of fire and the hazards ordinarily included under broad form extended coverage endorsements in amounts not less than 90% of the full insurable value thereof within the terms of applicable policies.

(2) If there are boiler or pressure vessels, from boiler or pressure vessel explosion in an amount customarily carried in the case of similar industrial operations.

B. At all times during the term, the A&P Commission shall at the Commission's sole cost or expense maintain or cause to be maintained:

(1) General Public Liability insurance against claims for bodily injury or death occurring upon, in or about the Leased Premises, with such insurance to afford protection to the limits of not less than \$1,000,000 in respect of bodily injury or death to any one person and to the limit of not less than \$2,000,000 in respect to any one accident; and

(2) Property damage insurance against claims for damage to property occurring upon, in or about the Leased Premises with such insurance to afford protection to the limit of not less than \$50,000 in respect of damages to the property of any one owner.

C. The insurance required by § 301 shall be maintained in full force and effect at all times during the term of this Lease Agreement;

D. Copies or certificates of the insurance provided for by this Article or elsewhere in this Lease Agreement shall be delivered to the parties. And, in the case of expiring policies throughout the term, copies or certificates of any new or renewal policies shall be promptly delivered to the parties.

E. All insurance required by this Section 301 shall be placed with insurance companies qualified to do business in the State of Arkansas. Appropriate provisions shall be inserted in each insurance policy making each policy noncancelable without at least ten (10) days prior written notice to Fayetteville and A&P Commission.

ARTICLE IV

REPAIRS AND MAINTENANCE OF LEASED PREMISES AND ALTERATIONS

Section 401.

A. The A&P Commission had been responsible during the initial 22 year Lease Agreement of September, 1998 to "promptly at no cost and expense to Lessor (City) make or cause to be made all necessary repairs, interior or exterior, structural and non-structural, foreseen as well as unforeseen to such improvements (the Town Center)." The City of Fayetteville shall now assume through this Lease Agreement a large portion of those duties and costs by becoming responsible during this lease Term for the replacement or refurbishing of the following systems of the Town Center after the end of the life cycle of each system:

- (1) Heating and air conditioning system
- (2) Roof
- (3) Exterior walls
- (4) Interior and exterior plumbing
- (5) Electrical systems

- (6) Fire sprinkler systems
- (7) Fire alarm system
- (8) Elevators
- (9) Parking deck
- (10) Paved sidewalks and ramps
- (11) Town Center plaza

B. The City shall determine and notify the Commission of the life cycle of each such system listed above and is not required to repair, replace or refurbish any system which has not achieved its expected life cycle date nor if any defect, damage, or needed repair to a system is due to the A&P Commission's neglect, failure to properly and timely maintain and service the system, or because of any negligence by the A&P Commission or its agents, invitees, or customers. Fayetteville will present to the A&P Commission the expected life cycle for each of the systems and may require specific, regular preventive maintenance for any system to be accomplished and certified to by the A&P Commission. Fayetteville may inspect at its discretion such maintenance logs and reports during normal business hours of the Fayetteville Town Center.

C. The A&P Commission shall throughout the term, at no cost to the City, satisfactorily maintain or cause to be maintained all the systems which the City may need to repair, refurbish or replace at the end of life cycle for such system established by the City of Fayetteville pursuant to this Lease Agreement. The A&P Commission shall document all such maintenance and minor repair of these systems and allow Fayetteville to inspect those maintenance records upon request. The City may inspect any or all of these systems with reasonable notice to the A&P Commission and may require additional, better, or more frequent preventive maintenance by the A&P Commission if a system appears to need increased maintenance, has apparently suffered insufficient preventive maintenance in the past, or is in danger of not reaching its expected life cycle before repair, refurbishment or replacement is necessary. Any such uncured or unresolved

problems may relieve the City from some or all of its responsibilities to repair, refurbish or replace such system.

D. The A&P Commission shall, at no cost to the City, be responsible for maintenance and upkeep of the Town Center, Parking Deck, Plaza and other premises beyond the systems specified in Section 401 A. The A&P Commission shall also be responsible for the proper maintenance and repair of all fixtures in the kitchen and bathrooms, all lighting and furniture and as well as all carpeting, flooring, rugs and other floor coverings.

Section 402. The A&P Commission shall have the right from time to time to make additions, alterations, and changes in or to the improvements constituting part of the Leased Premises and shall have the right to construct new improvements with the prior written approval of the City of Fayetteville. Such approval shall not be unreasonably withheld. In the event the A&P Commission makes any additions, alterations, and changes in or to the improvements constituting part of the Leased Premises as authorized by this Section, the A&P Commission shall be under no obligation at the expiration of the term to restore the Leased Premises to their original condition prior to such additions, alterations, or changes.

Section 403. All structural improvements and alterations, which are permanent in nature, made on the Leased Premises by or on behalf of A&P Commission shall immediately upon completion thereof be and become the property of Fayetteville without payment therefor by Fayetteville but subject to this Lease Agreement. All machinery and equipment, trade fixtures, movable partitions, furniture, and furnishings and other property purchased and installed on the Leased Premises at the expense of A&P Commission, including but not limited to lighting systems, audio visual equipment, freezers, and desks, shall remain the property of the A&P Commission.

Any and all built-in equipment and built-in furniture shall be and remain the property of the City of Fayetteville at the end of the Lease Agreement's Term.

Section 404. The A&P Commission agrees to timely and completely pay or cause to be paid all charges for water, gas, sewer, electricity, light, heat or power, telephone or other service used, rendered or supplied to or for the A&P Commission upon or in connection with the Leased Premises throughout the Term of this Lease Agreement.

ARTICLE V

USE OF LEASED PREMISES - COMPLIANCE WITH ORDERS. ETC.

Section 501. Subject to the following provisions of this Section, Fayetteville and the A&P Commission agree that the A&P Commission shall use the Leased Premises for a multi-purpose civic center for meetings and conventions, exhibitions, entertainment events and related uses and related parking facilities. The A&P Commission shall promptly comply with all valid statutes, laws, and requirements of all federal, state, local, and other governments or governmental authorities now or hereafter applicable to the Leased Premises. The A&P Commission shall during the term comply with the mandatory requirements, rules and regulations of all insurers under the policies required to be carried under the provisions of this Lease Agreement.

Section 502. The A&P Commission covenants that it will operate the Town Center in a prudent and financially responsible manner, and will fix, charge, and collect reasonable rates, fees, and charges for the use of the Town Center and for services performed by the A&P Commission in connection therewith.

Section 503. The A&P Commission covenants that it will at all times operate the Town Center as a convention center within the requirements of the Advertising and Promotion Commission Act (Ark. Code Ann. § 26-75-601 et. seq.) so that Fayetteville will qualify under the

provisions of the City-County Tourist Meeting and Entertainment Facilities Assistance Law (Ark. Code Ann. § 14-171-210 et. seq.) for turnback funds.

Section 504. The A&P Commission agrees that all its records, reports, accounts, writings, and documents are and shall be covered by the Freedom of Information Act (Ark. Code Ann. § 25-19-101 et. seq.) and shall be open for inspection and copying at all times as set forth in that Act.

Section 505. The A&P Commission agrees to present annual reports to Fayetteville and its City Council near the anniversary date of this agreement. This report will include documentation on how and whether the Town Center has been managed to accomplish the following goals: (1) generate increased tourism for Fayetteville; (2) remain financially viable with all debts and obligations paid timely; (3) serve the Fayetteville community by its use for local non-profit groups and other community events such as dances, dinners, receptions, and other meetings. If the City Council determines the A&P Commission has failed to properly accomplish any of the three stated goals, the A&P Commission shall be given written notice of such failure. A special review to determine if corrective action taken by the A&P Commission has resolved any failure will be conducted after six months. If the City Council then determines the problem has been resolved to its satisfaction, the report process will continue as stated above. If the City Council determines the failure has not been satisfactorily resolved, the City Council can allow additional time to the A&P Commission to resolve the problem, or the City Council may declare the A&P Commission to be in default and Fayetteville may re-enter and take possession of the Leased Premises as provided in Section 1102.

Section 506. Maintenance records are to be kept and presented to City of Fayetteville Facilities Management Division annually. An annual audit of the systems will be

performed by the Facilities Management Director or assigned personnel to ensure proper maintenance is being done. In the event deficiencies are found, Fayetteville may require the A&P Commission to perform immediate repairs, increased preventive maintenance, or take other actions to correct the deficiencies. See §401 C. for additional requirements and consequences for unresolved problems.

Section 507. At the request of either Fayetteville or the A&P Commission, but not more frequently than once every other year, a meeting may be called for the purpose of proposing amendments to this agreement. The staff of Fayetteville and the A&P Commission agree to be present at such meeting to negotiate concerning any proposed amendments.

ARTICLE VI

PARKING DECK

Section 601. Fayetteville agrees to operate the parking deck at the Town Center (the "Deck"), during the Term of this Lease Agreement and any extension thereof. The City shall:

- A. Collect the revenues generated from the parking system in the Deck and transfer said revenues to the designated personnel at the Commission. The City shall enforce the Deck consistent with other city-managed parking facilities and will retain all revenues resulting from enforcement of the parking in the Deck.
- B. Facilitate the purchase of parking permits for the Deck and maintenance associated customer accounts.
- C. Coordinate with designated personnel of the Commission regarding parking needs for events taking place at the Town Center.
- D. Provide to the designated personnel of the Commission on a regular basis an accounting of all revenues received.
- E. Provide routine maintenance on the parking system of the Deck provided that any costs and expenses incurred for vendor-provided equipment maintenance shall be borne by the Commission. Additionally, all costs and expenses incurred for the purchase of equipment and supplies for the operation of the Deck shall be borne by the Commission, provided that such purchases have the prior

approval of a designated representative of the Commission in keeping with the City's overall parking masterplan.

F. Take calls and complaints concerning the Deck.

G. Provide a minimum of eight (8) hours of general cleaning services per week in the following areas:

1. All levels of the parking deck;
2. Plaza contracted parking lot (below);
3. Alleyway running between East Avenue and Block Avenue;
4. Town Center Plaza area (above);
5. As used in this Lease Agreement, general cleaning services include sweeping, blowing, vacuuming, spot washing of soft drinks, mud, or other spills, and the emptying of trash containers into the Town Center dumpster. All other cleaning and maintenance of the aforementioned areas, included any cleaning needs resulting from events taking place at the Town Center, shall be the responsibility of the Commission.

Section 602. In exchange for the services listed in Section 601 herein, the Commission agrees to provide fifty-five (55) parking spaces on the deck to be used by employees of the City, provided that:

- A. The City agrees to abide by the same rules that apply to the other customers leasing spaces on the deck.
- B. The City agrees to allocate parking only to City employees.
- C. The City shall expend its best efforts to discourage nighttime parking, as the Town Center frequently holds nighttime events.
- D. The City shall encourage employees to park towards the west end of the deck, leaving spaces closest to the elevators open for Town Center customer parking.

Section 603. Except as provided in Section 602 herein, The Commission shall manage the parking deck in a prudent and financially responsible manner, and will fix and charge reasonable rates, fees and charges for the use of the parking deck. The Commission shall be

responsible for all collection actions associated with delinquent accounts, provided that the City shall be responsible for informing the Commission of such accounts in a timely manner.

Section 604. Neither party may assign any of its rights or obligations under this Article VI without the express written consent of the other. A waiver by either party of any of the terms or conditions of this Article VI herein shall be limited to that particular instance and shall not be construed as a general waiver of any other breaches by either party.

ARTICLE VII

FAYETTEVILLE MAY PERFORM A&P COMMISSION'S OBLIGATIONS

Section 701. If the A&P Commission shall fail to keep or perform any of its obligations as provided in this Lease Agreement in respect to (a) maintenance of insurance; (b) repairs and maintenance of the Leased Premises; (c) compliance with legal or insurance requirements; or (d) making of any other payment or performance of any other obligations, then Fayetteville may (but shall not be obligated to), upon the continuance of such failure on the A&P Commission's part for thirty (30) days after written notice to the A&P Commission, and without waiving or releasing the A&P Commission from any obligation, and as an additional but not exclusive remedy, make any such payment or perform any such obligation (not under circumstances where such payment or performance would defeat any rights, herein specifically given to the A&P Commission, to withhold such performance or to contest such obligation to the extent herein provided), and all sums so paid by Fayetteville and all necessary incidental costs and expenses incurred by Fayetteville shall be paid to Fayetteville on demand.

ARTICLE VIII

INSPECTION OF LEASED PREMISES

Section 801. The A&P Commission shall permit Fayetteville or its authorized representatives to enter the Leased Premises at all reasonable times during usual business hours for the purpose of general inspection or for inspection of the performance of any maintenance, repairs, or construction work done by the A&P Commission, and records thereof.

ARTICLE IX

DAMAGE AND DESTRUCTION

Section 901.

A. The A&P Commission covenants and agrees that in the event of damage to or destruction of the Leased Premises, or any part thereof, by fire or other casualty, the A&P Commission shall immediately notify Fayetteville. If the Leased Premises sustains "Major Damage or Destruction," (as hereafter defined) either party may terminate this Lease Agreement by giving written notice to the other party within 45 days after the date of the casualty. If the damage does not constitute Major Damage or Destruction, the parties shall use the insurance proceeds to restore, repair, rebuild or replace the Leased Premises as nearly as possible to the condition they were in immediately prior to such damage or destruction.

B. The term "Major Damage or Destruction" means any damage or injury to or destruction of the Leased Premises or any part thereof (whether or not resulting from an insured peril) such that the Leased Premises cannot reasonably be restored to their condition immediately preceding such damage, injury or destruction within a period of ninety (90) working days, or which would prevent the A&P Commission from carrying on its operations therein for at least ninety (90) working days or if the restoration cost would so exceed the total amount of insurance or other

proceeds that repair, restoration, or reconstruction would not be feasible nor desirable as determined by the Fayetteville City Council.

C. All insurance money paid on account of such Major Damage or Destruction shall be paid to the City of Fayetteville and applied only to the payment of the cost of the restoration, repairs, replacements, or rebuilding, including expenditures made for temporary repairs or for the protection of property pending the completion of permanent restoration, repairs, replacements, or rebuilding or to prevent interference with the business operated thereon unless the insurance funds are insufficient to accomplish full restoration, repair, replacement, rebuilding, and the other necessary expenses. If the insurance money is insufficient for those purposes, it shall be paid to the City of Fayetteville to be used preferably for a capital expenditure similar to the Town Center to be determined by the City Council to be in the best interests of Fayetteville.

ARTICLE X

ASSIGNMENT

Section 1001. The A&P Commission may not assign this Lease Agreement or sublet the Leased premises or part thereof for a period longer than sixty (60) days without the prior written consent of Fayetteville. No assignment or subletting and no dealings or transactions between Fayetteville and any or assignee shall relieve the A&P Commission of any of its obligations under this Lease Agreement. The A&P Commission shall remain as fully bound as though no assignment or subletting had been made, and performance by any assignee or sublessee of the A&P Commission shall be considered as performance by the Advertising & Promotion Commission.

ARTICLE XI
DEFAULT PROVISIONS

Section 1101. The following shall be "Events of Default" under this Lease Agreement and the terms "Event of Default" or "Default" shall mean, whenever they are used in this Lease Agreement, any one or more of the following events: failure by the A&P Commission to observe and perform any covenant, condition or agreement on its part to be observed or performed, (1) for a period of thirty (30) days after written notice, specifying such failure and requesting that it be remedied, given to the A&P Commission by Fayetteville unless the Fayetteville shall agree in writing to an extension of such time prior to its expiration or (2) for such longer period as may be reasonably necessary to remedy such default provided that the A&P Commission is proceeding with reasonable diligence to remedy the same.

Section 1102. Whenever any Event of Default shall happen and then be continuing, Fayetteville may take any or all of the following remedial steps:

- (1) Fayetteville may re-enter and take possession of the Leased Premises without terminating this Lease Agreement and sublease the Leased Premises.
- (2) Fayetteville may terminate the Lease Agreement and exclude the A&P Commission from possession of the Leased Premises.
- (3) Fayetteville shall have access to and inspect, examine and make copies of the books and records relating to the Leased Premises.
- (4) Fayetteville may take whatever legal action may appear necessary or desirable to collect any rent of the Town Center and any other amounts payable to the A&P Commission hereunder, then due and thereafter to become due, and/or to enforce performance and observance of any obligation, agreement or covenant of the A&P Commission under this Lease Agreement.

Section 1103. No remedy herein conferred upon or reserved to the Fayetteville is intended to be exclusive of any other available remedy or remedies, but each and every such

remedy shall be cumulative and shall be in addition to every other remedy given under this Lease Agreement as now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof but any such right or power may be exercised from time to time as often as may be deemed expedient.

ARTICLE XII

NOTICES

Section 1201. All notices, demands and requests which may or are required to be given by either party to the other shall be in writing, and each shall be deemed to have been properly given when served personally on an executive officer of the party to whom such notice is to be given, or when sent postage prepaid by certified mail by deposit thereof in a duly constituted United States Post Office or branch thereof located in one of the present states of the United States of America in a sealed envelope addressed as follows:

If intended for A&P Commission:

CEO
Advertising and Promotion Commission
City of Fayetteville, Arkansas
21 South Block Avenue Suite 100
Fayetteville, AR 72701

If intended for Fayetteville:

Mayor
City Administration Building
113 W. Mountain Street
Fayetteville, AR 72701

Any party may change the address and the name of addressee to which subsequent notices are to be sent by notice to the other parties given as aforesaid.

ARTICLE XIII

GENERAL

Section 1301. This Lease Agreement shall be construed and enforced in accordance with the laws of the State of Arkansas. Proper venue and jurisdiction is Fayetteville, Washington County, Arkansas.

Section 1302. If any provision of this Lease Agreement or the application thereof to any person or circumstance shall, to any extent, be determined to be invalid or unenforceable, the remainder of this Lease Agreement and the application of its provisions to persons or circumstances other than those as to which it has been determined to be invalid or unenforceable, shall not be affected thereby, and each provision of this Lease Agreement shall be valid and shall be enforced to the fullest extent permitted by law.

Section 1303. The provisions of this Lease Agreement shall bind and inure to the benefit of the parties hereto and their respective successors.

Section 1304. This Lease Agreement constitutes the entire agreement between these parties relating to the Leased Premises described herein and recites the entire consideration given and accepted by the parties. No representations not expressed herein have been made by either party or their agents. No representative of either party shall have any authority to bind the party allegedly represented concerning any modifications, additions, amendments or changes to this Lease Agreement.

Section 1305. Nothing in this Lease Agreement shall be construed to waive the sovereign immunity of the State of Arkansas or any entity thereof and nothing herein shall be

construed to waive the statutory tort immunity of the City of Fayetteville and any potential immunity of the Fayetteville Advertising and Promotion Commission.

IN WITNESS WHEREOF, Mayor Jordan having been properly authorized to execute this Lease Agreement by City Council Resolution and CEO Molly Rawn having been properly authorized by resolution of the Fayetteville Advertising and Promotion Commission do hereby sign their names to express Fayetteville's and the Fayetteville Advertising and Promotion Commission's full approval and acceptance of this Lease Agreement and all of its promises, covenants, and requirements therein contained. This Lease Agreement may be signed in counterparts which shall be considered originals.

**FAYETTEVILLE ADVERTISING &
PROMOTION COMMISSION**

CITY OF FAYETTEVILLE, ARKANSAS

Molly Rawn
Molly Rawn, CEO

Lioneld Jordan, Mayor

March 3, 2023
Date

Date

WITNESS:

ATTEST:

Printed Name & Title

Kara Paxton, City Clerk Treasurer

EXHIBIT A

To the LEASE AGREEMENT by and between the CITY OF FAYETTEVILLE, ARKANSAS
and the FAYETTEVILLE ADVERTISING AND PROMOTION COMMISSION:

The following described land situated in the County of Washington, State of
Arkansas, to-wit:

Lot Numbered Eight (8), the north seven (7) feet of equal and uniform width of Lot Numbered
Nine (9), Lots Numbered Twelve (12), Thirteen (13), Fourteen (14) and Fifteen (15), including the
interest in any vacated alley associated with each lot or partial lot, all in Block Numbered Thirty
(30) in the Town (now City) of Fayetteville, as designated upon the original plat of said town filed
In the Office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas.

Also any and all interest in "partnership" or common "walls" which were previously conveyed to
the Grantor. Said walls and buildings are no longer in existence.



MEETING OF MARCH 21, 2023

TO: Mayor Jordan and City Council

THRU: Susan Norton, Chief of Staff
Chris Brown, Public Works Director
Terry Gulley, Asst Public Works Director - Ops

FROM: Byron Humphry, Parks Maintenance Superintendent

DATE:

SUBJECT: **Staff recommends approval of a contract amendment with Titan Lawn and Landscape, LLC in the amount of \$150,000.00, for a total contract amount of \$241,310.72, to provide trash removal services, to remove trash and debris from unsanctioned camp sites on City property, along the trail system, and adjacent properties as needed and approval of a budget adjustment.**

RECOMMENDATION:

Staff recommends approval of a contract amendment with Titan Lawn and Landscape, LLC in the amount of \$150,000.00, for a total contract amount of \$241,310.72, to provide trash removal services, to remove trash and debris from unsanctioned camp sites on City property, along the trail system, and adjacent properties as needed and approval of a budget adjustment.

BACKGROUND:

On May 3, 2022, City Council approved resolution 94-22 to award RFP 22-03 and authorize a contract with Titan Lawn & Landscape LLC in the amount of \$91,310.72 for mowing services for Park and Public Right of Way areas. The contract also provided hourly rates for landscape maintenance, drainage, and irrigation services.

DISCUSSION:

Trash and debris, from unsanctioned campsites, has accumulated on City property, along the trail system and on adjacent properties that poses a health and environmental hazard and detracts from the beauty of our trail system. The burden of removal of this trash falls to the property owner and takes considerable amounts of time and resources to manage and remove. To help offset this burden, the City proposes to engage a contractor to gather and remove trash from these unsanctioned camp sites.

Titan Lawn and Landscape, LLC currently contracts with the City for mowing services in Parks, Right of Way, and the new Police headquarters as well as services including landscape maintenance, drainage, and irrigation. This proposal adds an amendment to the existing contract to include an additional scope of work for trash removal services.

BUDGET/STAFF IMPACT:

Titan Lawn & Landscape, LLC provided a cost of \$67.50 per man-hour for trash removal services.

Mailing address:

113 W. Mountain Street
Fayetteville, AR 72701

www.fayetteville-ar.gov

ATTACHMENTS: SRF Titan Lawn Trash Removal, Contract Amendment Titan Lawn Landscape, Titan Lawn & Trash Removal Scope of Work, BA Titan Lawn Trash Removal



City of Fayetteville, Arkansas

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

Legislation Text

File #: 2023-545

Staff recommends approval of a contract amendment with Titan Lawn and Landscape, LLC in the amount of \$150,000.00, for a total contract amount of \$241,310.72, to provide trash removal services, to remove trash and debris from unsanctioned camp sites on City property, along the trail system, and adjacent properties as needed and approval of a budget adjustment.

A RESOLUTION TO APPROVE AN AMENDMENT TO THE CONTRACT WITH TITAN LAWN AND LANDSCAPE, LLC IN AN ADDITIONAL AMOUNT NOT TO EXCEED \$150,000.00 TO PROVIDE TRASH AND REMOVAL SERVICES FROM UNSANCTIONED CAMP SITES ON CITY PROPERTY ALONG THE TRAIL SYSTEM AND ADJACENT PROPERTIES AS NEEDED, AND TO APPROVE A BUDGET ADJUSTMENT.

WHEREAS, on May 3, 2022 the City Council approved Resolution 94-22 authorizing a contract with Titan Lawn & Landscape, LLC in the amount of \$91,310.72 for mowing services for Park and Public Right of Way areas; and

WHEREAS, trash and debris from unsanctioned campsites has accumulated on City property along the trail system and on adjacent properties that poses a health and environmental hazard and detracts from the beauty of our trail system.

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 an Amendment to the contract with Titan Lawn and Landscape, LLC, a copy of which is attached to this Resolution, in an additional amount not to exceed \$150,000.00 (for a total contract amount not to exceed \$241,310.72), to provide trash and removal services from unsanctioned camp sites on City property along the trail system and adjacent property as needed.

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

2023-545

Item ID

3/21/2023

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

Byron Humphry

3/9/2023

PARKS & RECREATION (520)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Staff recommends approval of a contract amendment with Titan Lawn and Landscape, LLC in the amount of \$150,000.00, for a total contract amount of \$241,310.72, to provide trash removal services, to remove trash and debris from unsanctioned camp sites on City property, along the trail system, and adjacent properties as needed, and approval of a budget adjustment.

Budget Impact:

1010.520.5260-5315.00

General Fund

Account Number

Fund

62301.1

Camp Site Trash & Debris Removal

Project Number

Project Title

Budgeted Item? Yes

Total Amended Budget

\$ 120,000.00

Expenses (Actual+Encum)

\$ 90,000.00

Available Budget

\$ 30,000.00

Does item have a direct cost? No

Item Cost

\$ -

Is a Budget Adjustment attached? Yes

Budget Adjustment

\$ 150,000.00

Remaining Budget

\$ 180,000.00

V20221130

Purchase Order Number: _____

Previous Ordinance or Resolution # 94-22

Change Order Number: _____

Approval Date: 5/3/2022

Original Contract Number: _____

Comments: Item Cost will vary depending on needs of the City and will be billed on a per hour/per case basis.

City of Fayetteville
Contract Amendment #1
Mowing Services Contract -- Resolution 94-22

This contract amendment executed this ____ day of _____, 2023, between the City of Fayetteville, Arkansas, and Titan Lawn & Landscape LLC. In consideration of the mutual covenants contained herein, the parties agree as follows:

1. Titan Lawn & Landscape LLC at its own cost and expense shall furnish all labor, materials, supplies, machinery, equipment, tools, supervision, bonds, insurance, tax permits, and all other accessories and services necessary to complete items bid per Titan Lawn & Landscape LLC's quote and in accordance with specifications attached hereto and made a part hereof.
2. The City of Fayetteville shall pay Titan Lawn & Landscape LLC based on their bid proposal in an amount not to exceed that which was quoted. Payments will be made after approval and acceptance of work and submission of invoice. Payments will be made approximately 30 days after receipt of invoice.
3. The Contract documents which comprise the contract between the City of Fayetteville and Titan Lawn & Landscape LLC shall include this Amendment and the following documents attached hereto, and made a part hereof for the remainder of the contract:
 - A. Additional Scope for Trash Removal -- Received from Roy Lovell 3.5.2023
4. The parties agree and understand that this Amendment is supplemental to their Agreement of May 3, 2022, and that it does not alter, amend or abridge any of the rights, obligations, or duties of the parties not expressly addressed herein.

WITNESS OUR HANDS THIS ____ DAY OF _____, 2023.

CONTRACTOR NAME

CITY OF FAYETTEVILLE, ARKANSAS

By: [Signature]
Signature

By: _____
LIONELD JORDAN, Mayor

Roy Lovell - OWNER
Printed Contractor Name & Title

ATTEST:

[Signature]
ATTEST (Signature)

By: _____
Kara Paxton, City Clerk-Treasurer

Stephanie A. Lovell
Company Secretary (Printed Name)

Date Signed: _____

Date Signed: 3/7/23

Trash Removal for City of Fayetteville

Change order to existing Contract with Titan Lawn & Landscape, LLC, RFP 22-03

Additional Scope for Trash Removal

- When City officials discover an illegal camp on City property or other property as directed by the City, if the camp is occupied, then the City contacts the police department who asks the individuals to remove their belongings and are given 48 hours to do so. After the notice has expired, or if the camp is already vacant, the City will contact the contractor to cleanup and remove the trash from the camp.
- The City will meet the contractor on site and show the camp and any property lines or other considerations.
- The contractor will supply labor, and any tools, bags, and equipment necessary to pick up and remove the trash from the abandoned camp.
- Trash must be taken to the City of Fayetteville Transfer Station at 1560 Happy Hollow Rd., weighed on the scales and dumped according to transfer station procedures. The weigh ticket will be noted as a sanctioned City cleanup and the cost of disposal will be covered by the City. The Transfer station is open Monday-Friday 7:00 am to 2:00 pm and Saturday 7:00 am to 10:00 am. If the location or scheduled work time requires a roll-off dumpster, this will be coordinated with the City on a case-by-case basis. The fee for the roll-off will be covered by the City.
- The contractor will not remove trash from any active camp, and if campers are present or show up after the City has requested the contractor to remove the camp, then the contractor will notify the City and/or the Police.

Rates

Trash Removal Services – Price per hour rate: \$67.50 per man hour

Budget Year	Division	PARKS & RECREATION (520)	Adjustment Number
2023	/Org2		
	Requestor:	Byron Humphry	

Staff recommends approval of a contract amendment with Titan Lawn and Landscape, LLC in the amount of \$150,000.00 to provide trash removal services, to remove trash and debris from illegal camp sites on City property, along the trail system and adjacent properties as needed and approval of a budget adjustment.

	COUNCIL DATE:	3/21/2023
	ITEM ID#:	2023-545
	Holly Black	
	3/8/2023 1:17 PM	
	Budget Division	Date
	TYPE:	D - (City Council)
	JOURNAL #:	
	GLDATE:	
	CHKD/POSTED:	/
RESOLUTION/ORDINANCE		

[illegible]



MEETING OF MARCH 21, 2023

TO: Mayor Jordan and City Council

THRU: Susan Norton, Chief of Staff
Jonathan Curth, Development Services Director
Jessica Masters, Development Review Manager

FROM: Ryan Umberger, Senior Planner

DATE:

SUBJECT: **RZN-2023-0002: Rezoning (SE OF N. GREGG AVE AND W. ELM ST/LEGACY VENTURES LLC, 367): Submitted by COMMUNITY BY DESIGN for properties located SE OF N. GREGG AVE AND W. ELM ST in WARD 2. The properties are zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contain approximately 1.71 acres. The request is to rezone 0.76 acres of the subject property to RI-12, RESIDENTIAL INTERMEDIATE, 12 UNITS PER ACRE and 0.95 acres to RI-U, RESIDENTIAL INTERMEDIATE-URBAN.**

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 properties are immediately southeast of the intersection of N. Gregg Avenue and W. Elm Street. The site is composed of two lots totaling 1.71 acres and is zoned RSF-4, Residential Single-family, 4 Units per Acre. No existing structures occupy the property, though there are overhead transmission lines along the south boundary. There is dense vegetation throughout the site but no zoning overlays or special regulations apply.

Request: The request is to rezone the property from RSF-4, Residential Single-Family, 4 Units per Acre to RI-12, Residential Intermediate, 12 Units per Acre RI-U, Residential Intermediate-Urban.

Public Comment: Staff has received public comment in favor and opposed to the rezoning. A letter of support states they are agreeable due to prior high-quality development that has been completed by the applicant. A letter opposing the rezoning states a preference for single-family development and identified issues with vehicular and bicycle safety. Staff also received a pair of phone calls opposing the rezoning identifying issues with tree removal and degradation of wildlife habitats, exacerbating dangerous traffic conditions, increased density, and that there is no assurance that affordable housing would be developed. Additional public comment in opposition to the request was heard at the February 13th Planning Commission meeting. Those who spoke said rezoning would cause or worsen issues with traffic, site access, increased density, and tree removal.

Land Use Compatibility: Staff finds the request to rezone the subject properties to RI-12 and RI-U is compatible given the surrounding context. Properties in the near vicinity are primarily used for residential purposes with

Mailing address:

113 W. Mountain Street
Fayetteville, AR 72701

www.fayetteville-ar.gov

some non-residential uses further afield to the north or separated by street and railroad right-of-way to the west. Two-family up to multi-family dwellings are present to the south along N. Gregg Avenue; to the north, west, and east properties are mostly developed with single-family homes. RSF-4 limits the use of the property to single-family dwellings and accessory uses. Rezoning broadens the permitted housing types, allowing everything from single- up to four-family dwellings by-right. RI-12 and RI-U prescribe the inclusion of a build-to-zone which requires that buildings address the public street where RSF-4 has a 15-foot front setback. Cluster housing developments are permitted by-right in RI-12 and RI-U zoning where they are a conditional use in RSF-4. The proposed rezoning would increase the permitted density at the site. RI-12 limits density to 12 units per acre and RI-U has an unlimited density.

Of the overall lot area, 0.76 acres of the east and south sides of the property are proposed to be rezoned to RI-12; 0.95 acres along the west side of the property is proposed to be rezoned to RI-U. Staff also finds that the bulk and area regulations are suitable and not out of context with the surrounding properties. The east and south extents are proposed to be rezoned to RI-12. In RI-12 zoning single family developments are permitted the smallest lot size with 50-foot minimum widths and 5,000 square foot minimum areas. Two-family dwellings have the same minimum lot width but require 7,260 square feet in area, and three-family dwellings and above require 90-foot lot widths and 10,890 square foot lots. RI-12 zoning merely requires an 18-foot lot width minimum for residential uses, meaning the higher density development pattern would be likeliest to occur along N. Gregg Avenue where there are other mixed density residential developments. The inclusion of a build-to-zone with the RI-12 and RI-U zoning districts also requires that buildings address N. Gregg Avenue which promotes walkability and pedestrian friendliness along a street lacking comfortable amenities.

Land Use Plan Analysis: Staff finds the proposal is consistent with the goals in City Plan 2040 and the future land use designation for this location. Rezoning to RI-12 and RI-U serves to contribute towards City Plan 2040 goals #1 – Appropriate Infill, 4 – Growing a Livable Transportation Network, and 6 – Create Opportunities for Attainable Housing. First, the site scores moderately on the Infill Scoring Matrix. Rezoning would put added residential density on properties with ready access to basic development needs such as public streets, water, and sanitary sewer. The property is also proximate to multiple schools including a Woodland Junior High, The New School, and the Fayetteville Montessori School. Rezoning aligns with Goal #4 since additional residential density would be located near multiple transit routes, non-residential uses and employment centers like the VA Medical Center.

Last, rezoning allows more diverse housing options than its current entitlements. A range of single- to four-family dwellings provides more opportunity for affordable options than a strictly single-family district. The request is consistent with the future land use map which designates the site as split between a Residential Neighborhood and City Neighborhood Area. Residential Neighborhood Areas are primarily residential in nature and support a wide variety of housing types of appropriate scale and context. City Neighborhood Areas encourage density in all housing types provide and provide a varying mix of nonresidential and residential uses. Staff finds the subject rezoning will help facilitate redevelopment of an infill site rather than contributing to suburban sprawl, create opportunities for diverse and attainable housing, and promotes residential development that is connected to non-residential services.

CITY PLAN 2040 INFILL MATRIX: City Plan 2040's Infill Matrix indicates 7-9 attributes for this site that may contribute to appropriate infill. The following elements of the matrix contribute to the score:

- Adequate Fire Response (Station #2, 708 N. Garland Avenue)
- Near Sewer Main (8" sewer main, N. Gregg Avenue & W. Elm Street)
- Near Water Main (18" sewer main, N. Gregg Avenue & W. Elm Street)
- Near Public School (Woodland Junior High)

Mailing address:

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- Near City Park (Gregory Park)
- Near ORT Bus Stop (Route 10)
- Near Razorback Transit Stop (Route 26 Peak)
- Near Paved Trail (Woodland Poplar Trail & Scull Creek Trail)
- Appropriate Future Land Use (City Neighborhood Area)

DISCUSSION:

At the February 13, 2023, Planning Commission meeting, a vote of 7-1-0 forwarded the request to City Council with a recommendation of approval. Commissioner Brink made the motion and Commissioner Canada seconded. Commissioners in favor of the rezoning found the request aligned with the surrounding context and the future land use map designation. Commissioner Garlock opposed the rezoning citing traffic and increased density among his concerns. Three members of the public spoke in opposition to the request during the meeting. Those who spoke asserted that rezoning would worsen traffic, especially without understanding how the site would be accessed. They also identified issues with increased density and tree removal.

BUDGET/STAFF IMPACT:

N/A

ATTACHMENTS: Corrected SRF, Exhibit A, Exhibit B, Corrected PC Report

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 #: 2023-450

RZN-2023-0002: Rezoning (SE OF N. GREGG AVE AND W. ELM ST/LEGACY VENTURES LLC, 367): Submitted by COMMUNITY BY DESIGN for properties located SE OF N. GREGG AVE AND W. ELM ST in WARD 2. The properties are zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contain approximately 1.71 acres. The request is to rezone 0.76 acres of the subject property to RI-12, RESIDENTIAL INTERMEDIATE, 12 UNITS PER ACRE and 0.95 acres to RI-U, RESIDENTIAL INTERMEDIATE-URBAN.

AN ORDINANCE TO REZONE THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 23-002 LOCATED SOUTHEAST OF NORTH GREGG AVENUE AND WEST ELM STREET IN WARD 2 FOR APPROXIMATELY 1.71 ACRES FROM RSF-4, RESIDENTIAL SINGLE FAMILY, 4 UNITS PER ACRE TO RI-12, RESIDENTIAL INTERMEDIATE, 12 UNITS PER ACRE AND RI-U, RESIDENTIAL INTERMEDIATE-URBAN

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 RSF-4, Residential Single Family, 4 Units Per Acre to RI-12, Residential Intermediate, 12 Units Per Acre and RI-U, Residential Intermediate-Urban.

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

2023-443

Legistar File ID

3/7/2022

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

Jonathan Curth

2/17/2023

DEVELOPMENT REVIEW (630)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

RZN-2023-0002: Rezoning (SE OF N. GREGG AVE AND W. ELM ST/LEGACY VENTURES LLC, 367): Submitted by COMMUNITY BY DESIGN for properties located SE OF N. GREGG AVE AND W. ELM ST in WARD 2. The properties are zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contain approximately 1.71 acres. The request is to rezone 0.76 acres of the subject property to RI-12, RESIDENTIAL INTERMEDIATE, 12 UNITS PER ACRE and 0.95 acres to RI-U, RESIDENTIAL INTERMEDIATE-URBAN.

Budget Impact:

Account Number		Fund	
Project Number		Project Title	
Budgeted Item?	No	Current Budget	\$ -
		Funds Obligated	\$ -
		Current Balance	\$ -
Does item have a cost?	No	Item Cost	\$ -
Budget Adjustment Attached?	No	Budget Adjustment	\$ -
		Remaining Budget	\$ -

V20210527

Purchase Order Number: _____

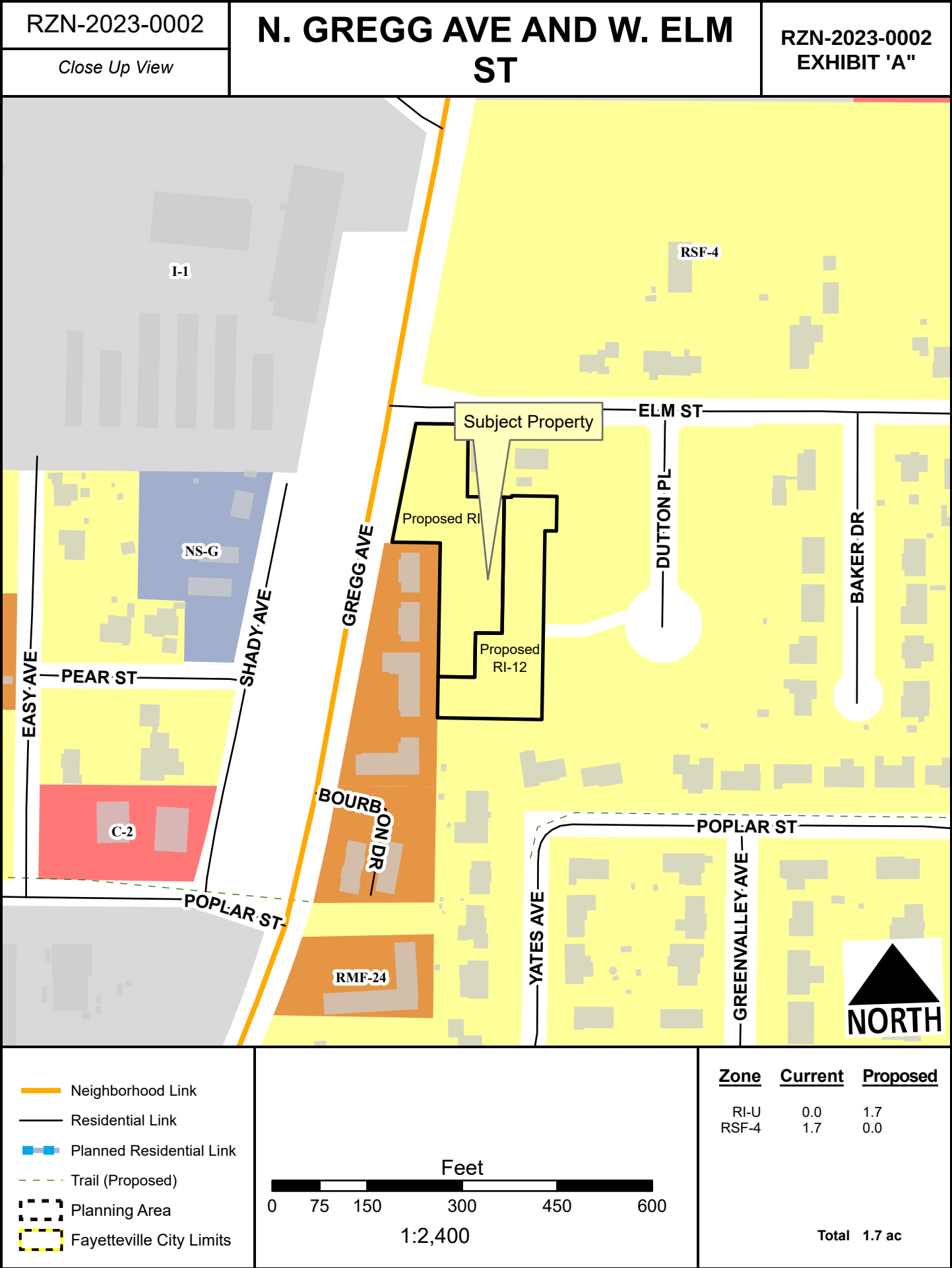
Previous Ordinance or Resolution # _____

Change Order Number: _____

Approval Date: _____

Original Contract Number: _____

Comments:



SURVEY DESCRIPTION GREGG AVENUE AND ELM STREET – PORTION PROPOSED FOR REZONING TO RI-U:

A PART OF LOT NUMBERED FIFTEEN (15) AND A PART OF LOT NUMBERED SIXTEEN (16) IN GREEN ACRES, A SUBDIVISION OF PART OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 3, AND A PART OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 4, ALL IN TOWNSHIP 16 NORTH, RANGE 30 WEST, AS DESIGNATED UPON THE RECORDED PLAT OF SAID SUBDIVISION, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT A POINT ON THE SOUTH RIGHT-OF-WAY OF ELM STREET WHICH IS S00°02'14"W 3.30' FROM THE NORTHWEST CORNER OF SAID LOT FIFTEEN AND RUNNING THENCE ALONG SAID RIGHT-OF-WAY N89°51'52"E 41.26', THENCE LEAVING SAID RIGHT-OF-WAY S00°08'08"E 114.50', THENCE N89°51'52"E 58.40', THENCE S00°02'13"W 214.72', THENCE N89°58'15"W 42.00', THENCE S00°02'14"W 70.00', THENCE N89°58'15"W 58.00', THENCE N00°02'18"E 211.16', THENCE N89°58'29"W 76.00' TO THE EAST RIGHT-OF-WAY OF GREGG AVENUE, THENCE ALONG SAID RIGHT-OF-WAY N10°29'26"E 190.84' TO THE SOUTH RIGHT-OF-WAY OF ELM STREET, THENCE ALONG SAID RIGHT-OF-WAY N89°51'52"E 41.38' TO THE POINT OF BEGINNING, CONTAINING 0.95 ACRES, MORE OR LESS. SUBJECT TO ALL EASEMENTS AND RIGHTS-OF-WAY OF RECORD.

SURVEY DESCRIPTION GREGG AVENUE AND ELM STREET – PORTION PROPOSED FOR REZONING TO RI-12:

A PART OF LOT NUMBERED FIFTEEN (15) AND A PART OF LOT NUMBERED SIXTEEN (16) IN GREEN ACRES, A SUBDIVISION OF PART OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 3, AND A PART OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 4, ALL IN TOWNSHIP 16 NORTH, RANGE 30 WEST, AS DESIGNATED UPON THE RECORDED PLAT OF SAID SUBDIVISION, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: COMMENCING AT THE NORTHWEST CORNER OF SAID LOT 15 AND RUNNING THENCE S00°02'14"W 3.30' TO THE SOUTH RIGHT-OF-WAY OF ELM STREET, THENCE ALONG SAID RIGHT-OF-WAY N89°51'52"E 41.26', THENCE LEAVING SAID RIGHT-OF-WAY S00°08'08"E 114.50', THENCE N89°51'52"E 58.40' TO THE TRUE POINT OF BEGINNING AND RUNNING THENCE N89°51'52"E 11.60', THENCE N00°08'08"W 2.50', THENCE N89°51'52"E 71.54', THENCE S00°02'57"W 54.65' TO AN EXISTING REBAR, THENCE N89°41'50"W 18.12' TO AN EXISTING REBAR, THENCE S00°02'13"W 297.91' TO AN EXISTING REBAR, THENCE N89°58'15"W 165.00', THENCE N00°01'59"E 65.00', THENCE S89°58'15"E 58.00', THENCE N00°02'14"E 70.00', THENCE S89°58'15"E 42.00', THENCE N00°02'13"E 214.72' TO THE POINT OF BEGINNING, CONTAINING 0.76 ACRES, MORE OR LESS. SUBJECT TO ALL EASEMENTS AND RIGHTS-OF-WAY OF RECORD.



PLANNING COMMISSION MEMO

TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Ryan Umberger, Senior Planner

MEETING DATE: February 13, 2023 (Updated with Planning Commission Results)

SUBJECT: **RZN-2023-0002: Rezoning (SE OF N. GREGG AVE AND W. ELM ST/LEGACY VENTURES LLC, 367):** Submitted by COMMUNITY BY DESIGN for properties located SE OF N. GREGG AVE AND W. ELM ST. The properties are zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and contain approximately 1.71 acres. The request is to rezone 0.76 acres of the subject property to RI-12, RESIDENTIAL INTERMEDIATE, 12 UNITS PER ACRE and 0.95 acres to RI-U, RESIDENTIAL INTERMEDIATE-URBAN.

RECOMMENDATION:

Staff recommends forwarding **RZN-2023-0002** to City Council with a recommendation of approval.

RECOMMENDED MOTION:

"I move to forward **RZN-2023-0002** to City Council with a recommendation of approval."

BACKGROUND:

The subject properties are immediately southeast of the intersection of N. Gregg Avenue and W. Elm Street. The site is composed of two lots totaling 1.71 acres and is zoned RSF-4, Residential Single-family, 4 Units per Acre. No existing structures occupy the property, though there are overhead transmission lines along the south boundary. No zoning overlays or special regulations apply to the site. There is, however, dense mature tree canopy throughout the site. Surrounding land uses and zoning is depicted in *Table 1*.

Table 1
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Single-Family Residential/Undeveloped	RSF-4, Residential Single-Family, 4 Units per Acre
South	Single-Family Residential	RSF-4, Residential Single-Family, 4 Units per Acre
East	Single-Family Residential	RSF-4, Residential Single-Family, 4 Units per Acre
West	Mixed-density Residential/Ridout Lumber Company	RMF-24, Residential Multi-Family, 24 Units per Acre; I-1, Heavy Commercial and Light Industrial

Request: The request is to rezone the property from RSF-4, Residential Single-Family, 4 Units per Acre to RI-12, Residential Intermediate, 12 Units per Acre RI-U, Residential Intermediate-Urban.

Public Comment: Staff has received public comment in favor and opposed to the rezoning. A letter

of support states they are agreeable due to prior high-quality development that has been completed by the applicant. A letter opposing the rezoning stated a preference for single-family development and identified issues with vehicular and bicycle safety.

INFRASTRUCTURE AND ENVIRONMENTAL REVIEW

Streets: The subject area has frontage along N. Gregg Avenue and W. Elm Street. N. Gregg Avenue is an improved Neighborhood Link Street with asphalt paving, sidewalk, and curb and gutter. W. Elm Street is a partially-improved Residential Link Street with asphalt paving and open ditches along the property's frontage. Any street improvements required in these areas would be determined at the time of development proposal.

Water: Public water is available to the subject area. Existing 8-inch water mains are present on the west side of N. Gregg Avenue and the north side of W. Elm Street.

Sewer: Sanitary Sewer is available to the subject area. Existing 18-inch sanitary sewer mains are present in the center of N. Gregg Avenue and W. Elm Street.

Fire: Fire apparatus access and fire protection water supplies will be reviewed for compliance with the Arkansas Fire Prevention Code at the time of development. Station 2, located at 708 N. Garland Avenue protects this site. The property is located approximately 1.6 miles from the fire station with an anticipated drive time of approximately four minutes using existing streets. The anticipated response time would be approximately 6.2 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 six minutes for an engine and eight minutes for a ladder truck.

Police: The Police Department expressed no concerns with this request.

Drainage: No portion of the property lies within the Hillside-Hilltop Overlay District or within a FEMA floodplain, there are no protected streams present in the subject area. Any additional improvements or requirements for drainage will be determined at time of development.

Hydric soils are present on the subject property. They are a known indicator of wetlands. However, for an area to be classified as wetlands, it may also need other characteristics such as hydrophytes (plants that grow in water), and shallow water during parts of the year. Hydric Soils can be found across many areas of Fayetteville, including valleys, floodplains, and open prairies. It is important to identify these natural resources during development, so when these soils are identified on a property, further environmental studies will be required at the time of development. Before permits will be issued for the property a statement/report from an environmental professional must be provided summarizing the existence of wetlands on the property. If this statement/report indicates that wetlands may be present on site, a USACE Determination of Jurisdictional Wetlands will be required at the time of development submittal. Hydric soils are present throughout the entirety of the subject property.

Tree Preservation:

The proposed zoning districts of RI-12, Residential Intermediate, 12 Units per Acre and RI-U, Residential Intermediate - Urban require a **20% and 15% minimum canopy preservation**, respectively. The current zoning district of RSF-4, Residential Single-Family, 4 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 a **Residential Neighborhood** and **City Neighborhood Area**.

Residential Neighborhood Areas are primarily residential in nature and support a wide variety of housing types of appropriate scale and context: single-family, duplexes, rowhouses, multifamily and accessory dwelling units. 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, such as retail and offices, on corners and along connecting corridors. This designation recognizes existing conventional subdivision developments which may have large blocks with conventional setbacks and development patterns that respond to features of the natural environment. Building setbacks may vary depending on the context of the existing neighborhood.

City Neighborhood Areas are more densely developed than residential neighborhood areas and provide a varying mix of nonresidential and residential uses. This designation supports the widest spectrum of uses and encourages density in all housing types, from single family to multi-family. City Neighborhood Areas encourage complete, compact and connected neighborhoods and non-residential uses are intended to serve the residents of Fayetteville, rather than a regional population. While they encourage dense development patterns, they do recognize existing conventional strip commercial developments and their potential for future redevelopment in a more efficient urban layout.

CITY PLAN 2040 INFILL MATRIX: City Plan 2040's Infill Matrix indicates a score of **7-9** for this site, with a weighted score of **11.5** at the highest level. The following elements of the matrix contribute to the score:

- Adequate Fire Response (Station #2, 708 N. Garland Avenue)
- Near Sewer Main (8" sewer main, N. Gregg Avenue & W. Elm Street)
- Near Water Main (18" sewer main, N. Gregg Avenue & W. Elm Street)
- Near Public School (Woodland Junior High)
- Near City Park (Gregory Park)
- Near ORT Bus Stop (Route 10)
- Near Razorback Transit Stop (Route 26 Peak)
- Near Paved Trail (Woodland Poplar Trail & Scull Creek Trail)
- Appropriate Future Land Use (City Neighborhood Area)

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 request to rezone the subject properties to RI-12 and RI-U is compatible given the surrounding context. Properties in the near vicinity are primarily used for residential purposes with some non-residential uses further afield to the north or separated by street and railroad right-of-way to the west. Two-family up to multi-family dwellings are present to the south along N. Gregg Avenue; to the north, west, and east properties are mostly developed with single-family homes. RSF-4 limits the use of the property to single-family dwellings and accessory uses. Rezoning broadens the permitted housing types, allowing everything from single- up to four-family dwellings by-right. RI-12 and RI-U prescribe the inclusion of a build-to-zone which requires that buildings address the public street where RSF-4 has a 15-foot front setback. Cluster housing developments are permitted by-right in RI-12 and RI-U zoning where they are a conditional use in RSF-4. The proposed rezoning would increase the permitted density at the site. RI-12 limits density to 12 units per acre and RI-U has an unlimited density. Of the overall lot area, 0.76 acres of the east and south sides of the property are proposed to be rezoned to RI-12; 0.95 acres along the west side of the property is proposed to be rezoned to RI-U. Staff also finds that the bulk and area regulations are suitable and not out of context with the surrounding properties. The east and south extents are proposed to be rezoned to RI-12. In RI-12 zoning single family developments are permitted the smallest lot size with 50-foot minimum widths and 5,000 square foot minimum areas. Two-family dwellings have the same minimum lot width but require 7,260 square feet in area, and three-family dwellings and above require 90-foot lot widths and 10,890 square foot lots. RI-12 zoning merely requires an 18-foot lot width minimum for residential uses, meaning the higher density development pattern would be likeliest to occur along N. Gregg Avenue where there are other mixed density residential developments. The inclusion of a build-to-zone with the RI-12 and RI-U zoning districts also requires that buildings address N. Gregg Avenue which promotes walkability and pedestrian friendliness along a street lacking comfortable amenities.

Land Use Plan Analysis: Staff finds the proposal is consistent with the goals in City Plan 2040 and the future land use designation for this location. Rezoning to RI-12 and RI-U serves to contribute towards City Plan 2040 goals #1 – Appropriate Infill, 4 – Growing a Livable Transportation Network, and 6 – Create Opportunities for Attainable Housing. First, the site scores moderately on the Infill Scoring Matrix. Rezoning would put added residential density on properties with ready access to basic development needs such as public streets, water, and sanitary sewer. The property is also proximate to multiple schools including a Woodland Junior High, The New School, and the Fayetteville Montessori School. Rezoning aligns with Goal #4 since additional residential density would be located near multiple transit routes, non-residential uses and employment centers like the VA Medical Center. Last, rezoning allows more diverse housing options than its current entitlements. A range of single- to four-family dwellings provides more opportunity for affordable options than a strictly single-family district. The request is consistent with the future land use map which designates the site as split between a Residential Neighborhood and City Neighborhood Area.

Residential Neighborhood Areas are primarily residential in nature and support a wide variety of housing types of appropriate scale and context. City Neighborhood Areas encourage density in all housing types provide and provide a varying mix of nonresidential and residential uses. Staff finds the subject rezoning will help facilitate redevelopment of an infill site rather than contributing to suburban sprawl, create opportunities for diverse and attainable housing, and promotes residential development that is connected to non-residential services.

2. A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed.

Finding: Staff believes that there is sufficient justification for rezoning the property to RI-12 and RI-U including diversifying the mix of residential uses along a Neighborhood Link Street and increasing density where it generally aligns with the future land use map.

3. A determination as to whether the proposed zoning would create or appreciably increase traffic danger and congestion.

Finding: Rezoning the property to RI-U carries an associated potential to increase traffic at this location. Staff finds added traffic generated from the site may complicate the existing traffic condition leading to increased congestion or danger. The site has direct access onto N. Gregg Avenue and W. Elm Street. N. Gregg Avenue is a Neighborhood Link Street with a designed service volume of less than 6,000 vehicles per day. Arkansas Department of Transportation estimates 16,000 vehicles per day traversed the road at a study point roughly 250 feet north of the subject property. The subject property appears to have adequate space to access N. Gregg Avenue and meet access management standards however, there were 12 vehicle crashes that occurred near the intersection of its unsignalized intersection with W. Elm Street between 2017-2021. W. Elm Street has a designed service volume of less than 4,000 vehicle trips per day but the segment north of the subject property does not have a study point. Two routes are available to access W. Elm Street. First, the property's frontage appears to be wide enough for a driveway to access the street directly from its frontage. Second, a stub out of alley right-of-way extends to the east side of the site from N. Dutton Place. Nearby access to the regional trail system and two transit routes offers some opportunity for future residents to use alternative modes. The Scull Creek Trail can be accessed within a half mile of the site though N. Gregg Avenue and a segment of the Arkansas-Missouri Railroad separate the site from the regional trail system. Transit stops for both Ozark Regional Transit and Razorback Transit are located within ½ mile of the site and do not require crossing major thoroughfares. Lastly, staff acknowledges that redevelopment of the site will require street improvements proportional to the development of the site which may incrementally improve pedestrian comfortability and connectivity to the wider non-motorized transportation network.

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: Rezoning the property from RSF-4 to RI-U has the capacity to increase the population density at this location. Staff finds that limitations such as the property's size and other development obligations such as required parking, drainage, and tree preservation will prevent an increase in density beyond what is suitable for the site. Water and sewer are available at this location, negating the need to extend or improve services and the existing street system can support added density. The Fayetteville Public School District 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 recommends approval of RZN-2023-0002.

PLANNING COMMISSION ACTION: Required <u>YES</u>			
Date: <u>February 13, 2023</u>	☐ Tabled	☒ Forwarded	☐ Denied
Motion: Brink			
Second: Canada		Recommending approval.	
Vote: 7-1-0			

BUDGET/STAFF IMPACT:

None

Attachments:

- Unified Development Code:
 - §161.07 District RSF-4, Residential Single-Family - Four (4) Units Per Acre
 - §161.11 District RI-12, Residential Intermediate, 12 (12) Units Per Acre
 - §161.12 District RI-U, Residential Intermediate – Urban
- Public Comment
- Applicant Request Letter
- Applicant Exhibit
- One Mile Map
- Close-up Map
- Current Land Use Map
- Future Land Use Map

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.

(Code 1991, §160.031; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. No. 4858, 4-18-06; Ord. No. 5028, 6-19-07; Ord. No. 5128, 4-15-08; Ord. No. 5224, 3-3-09; Ord. No. 5312, 4-20-10; Ord. No. 5462, 12-6-11; Ord. No. 5921, §1, 11-1-16; Ord. No. 5945, §8, 1-17-17; Ord. No. 6015, §1(Exh. A), 11-21-17; Ord. No. 6245, §2, 10-15-19; Ord. No. 6427, §§1(Exh. C), 2, 4-20-21)

Editor's note(s)—Ord. No. 6427, § 2, adopted April 20, 2021, "determines that this ordinance and all amendments to Code sections ordained or enacted by this ordinance shall automatically sunset, be repealed, terminated, and become void twenty (20) months after the passage and approval of this ordinance, unless prior to that date, the City Council amends this ordinance to repeal this sunset, repeal and termination section."

161.11 District RI-12, Residential Intermediate, Twelve (12) Units Per Acre

(A) *Purpose.* The RI-12 Residential District is designed to permit and encourage the development of detached and attached dwellings in suitable environments, to provide a development potential between low density and medium density with less impact than medium density development, to encourage the development of areas with existing public facilities and to encourage the development of a greater variety of housing values.

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two (2) family dwellings
Unit 10	Three (3) and four (4) family dwellings
Unit 41	Accessory dwellings
Unit 44	Cluster Housing Development
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 12a	Limited business
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

Units per acre	12
----------------	----

(D) *Bulk and Area Regulations.*

	Single-family	Two (2) family	Three (3) family
Lot width minimum	50 feet	50 feet	90 feet
Lot area minimum	5,000 square feet	7,260 square feet	10,890 square feet.

(E) *Setback Requirements.*

Front	Side Other Uses	Side Single & Two (2) family	Rear Other Uses	Rear Single Family
A build-to zone that is located between the front property line and a line 25 feet from the front property line.	8 feet	5 feet	20 feet	5 feet

(F) *Building Height Regulations.*

Building height maximum	2 stories/3 stories*
-------------------------	----------------------

* A building or a portion of a building that is located between 0 and 10 feet from the front property line or any master street plan right-of-way line shall have a maximum height of two (2) stories. Buildings or portions of the building set back greater than 10 feet from the master street plan right-of-way shall have a maximum height of three (3) stories.

(G) *Building Area.* The area occupied by all buildings shall not exceed 50% of the total lot area. Accessory ground mounted solar energy systems shall not be considered buildings.

(H) *Minimum Buildable Street Frontage.* 50% of the lot width.

(Code 1965, App. A., Art. 5(IIA); Ord. No. 3128, 10-1-85; Code 1991, §160.032; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. No. 5028, 6-19-07; Ord. No. 5224, 3-3-09; Ord. No. 5262, 8-4-09; Ord. No. 5312, 4-20-10; Ord. No. 5462, 12-6-11; Ord. No. 5592, 06-18-13; Ord. No. 5664, 2-18-14; Ord. No. 5800, §1(Exh. A), 10-6-15; Ord. No. 5921, §1, 11-1-16; Ord. No. 5945, §§4, 8, 9, 1-17-17; Ord. No. 6015, §1(Exh. A), 11-21-17; Ord. No. 6245, §2, 10-15-19; Ord. No. 6427, §§1(Exh. C), 2, 4-20-21)

Ord. No. 6427, § 2, adopted April 20, 2021, "determines that this ordinance and all amendments to Code sections ordained or enacted by this ordinance shall automatically sunset, be repealed, terminated, and become void twenty (20) months after the passage and approval of this ordinance, unless prior to that date, the City Council amends this ordinance to repeal this sunset, repeal and termination section."

161.12 District RI-U, Residential Intermediate - Urban

(A) *Purpose.* The RI-U Residential District is designed to permit and encourage the development of detached and attached dwellings in suitable environments, to provide a range of housing types compatible in scale with single-family homes and to encourage a diversity of housing types to meet demand for walkable urban living.

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two (2) family dwellings
Unit 10	Three (3) and four (4) family dwellings
Unit 41	Accessory dwellings
Unit 44	Cluster housing development
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 12a	Limited business
Unit 24	Home occupations
Unit 26	Multi-family dwellings
Unit 36	Wireless communications facilities

(C) *Density.* None.

(D) *Bulk and Area Regulations.*

	Dwelling (all types)
Lot width minimum	18 feet
Lot area minimum	None

(E) *Setback Requirements.*

Front	Side Other Uses	Side Single & Two (2) Family	Rear Other Uses	Rear, from centerline of an alley
A build-to zone that is located between the front property, line and a line 25 feet from the front property line.	None	5 feet	5 feet	12 feet

(F) *Building Height Regulations.*

Building height maximum	2 stories/3 stories*
-------------------------	----------------------

* A building or a portion of a building that is located between 0 and 10 feet from the front property line or any master street plan right-of-way line shall have a maximum height of two (2) stories. Buildings or portions of the building set back greater than 10 feet from the master street plan right-of-way shall have a maximum height of three (3) stories.

(G) *Building Area.* The area occupied by all buildings shall not exceed 60% of the total lot area. Accessory ground mounted solar energy systems shall not be considered buildings.

(H) *Minimum Buildable Street Frontage*. 50% of the lot width.

(Ord. No. 5945 , §5(Exh. A), 1-17-17; Ord. No. 6015 , §1(Exh. A), 11-21-17; Ord. No. 6245 , §2, 10-15-19; Ord. No. 6427 , §§1(Exh. C), 2, 4-20-21)

Editor's note(s)—Ord. No. 6427 , § 2, adopted April 20, 2021, "determines that this ordinance and all amendments to Code sections ordained or enacted by this ordinance shall automatically sunset, be repealed, terminated, and become void twenty (20) months after the passage and approval of this ordinance, unless prior to that date, the City Council amends this ordinance to repeal this sunset, repeal and termination section."

Umberger, Ryan

To: Planning Shared
Subject: RE: RZN-2023-0002 (N. GREGG AVE AND W. ELM ST)

From: Scott Hill [<mailto:razorbackscott@gmail.com>]
Sent: Saturday, February 04, 2023 9:22 AM
To: Planning Shared <planning@fayetteville-ar.gov>
Subject: RZN-2023-0002 (N. GREGG AVE AND W. ELM ST)

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.

Hi,

I live about 3 blocks from this re-zoning. I support it. Community By Design usually plans wonderful development, so I don't hesitate to support them and whatever plans they have here for my neighborhood. I am a general contractor, although my company is not affiliated with this project in any way.

Thank you.

Scott Hill
61 E. Elm St
Fayetteville

Umberger, Ryan

To: belle_20042004@yahoo.com
Subject: RE: Rezoning of area by Elm and Gregg

From: belle_20042004@yahoo.com [mailto:belle_20042004@yahoo.com]
Sent: Tuesday, February 07, 2023 8:54 PM
To: Planning Shared <planning@fayetteville-ar.gov>
Subject: Rezoning of area by Elm and Gregg

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.

RZN-2023-0002 (N. GREGG AVE AND W. ELM ST)

Hello Planning committee,

I would like to say that putting apartments instead of keeping the area for single family homes goes against what the builder promised (if this is the same builder). But past that, it is hard enough trying to turn left onto Gregg from Elm street. I cannot image what more apartments will do for the safety of the area for vehicles and bicycles. Please do not let this area be rezoned.

Best regards
Sharon Brasko
Baker Drive.

[Sent from Yahoo Mail for iPhone](#)

January 17, 2023
Via Email

Ms. Jessica Masters
Zoning and Development Administrator
City of Fayetteville
125 West Mountain Street
Fayetteville, Arkansas 72701

RE: **Gregg Avenue and Elm Street
Rezone Request RZN 2023 0002 - Revisions**

Ms. Masters,

Thank you for meeting with us on January 10. We have looked into it and have decided to revise a portion of our rezone request to RI-12. Please find the following revised documents which show the request to now include 0.95 acres of RI-U along the west side of the property and 0.76 acres of RI-12 along the east and south sides of the property:

- One (1) copy of – Revised Survey Description of Property to be Rezoned Dated 1/17/23
- One (1) copy of – Revised Lot Split Tract C Exhibit Dated 1/17/23
- One (1) copy of – Submittal Letter Dated 1/17/23

Please let me know if you have any questions or if you need additional information in order to process this request.

Sincerely,



Brian Teague
Community By Design

WRITTEN DESCRIPTION OF GREGG AVENUE AND ELM STREET RI-U REZONE REQUEST PER THE CITY OF FAYETTEVILLE REZONING APPLICATION

a. Current ownership information and any proposed or pending property sales.

The subject property is owned by Tim Brisiel and Legacy Ventures LLC. There are no proposed or pending property sales.

b. Reason (need) for requesting the zoning change.

The reason for the zoning change request is to better accommodate future development on the property to be more in accordance with the City Plan 2040 goals. Specifically goal #1, to make appropriate infill and revitalization our highest priority and goals #2 and #3 to discourage suburban sprawl and make compact, complete, and connected development the standard. Goals #4 and #6, to grow a livable transportation network and create opportunities for attainable housing will also be accommodated better if the rezoning change is granted. The zoning change will also create more opportunity to preserve natural features which could contribute to goal #5 of assembling and enduring green network.

The RI-U District will better accommodate development on the property that is more in accordance with the City Neighborhood Area Future Land Use Designation on the west side of the property, while at the same time making possible a compatible transition to the Residential Neighborhood Area Designation on the east side of the property. The RI-U District is designed to provide a range of housing types compatible in scale with single-family homes and also to encourage a diversity of housing types to meet demand for walkable urban living.

c. Statement of how the proposed rezoning will relate to surrounding properties in terms of land use, traffic, appearance, and signage.

The rules and regulations set forth in the RI-U District will make possible smaller-scaled development on the property that is compatible to existing multi-family development immediately adjacent to the property on the west side and that will also be compatible with single-family development that is currently occurring immediately east of the property. With direct access to Gregg Avenue and transit along the corridor, development of the property with the RI-U district will not negatively impact traffic.

d. Availability of water and sewer (state size of lines).

Public Water and Sewer is available and accessible along Gregg Avenue and Elm Street. 18" sanitary sewer mains and 8" water mains exist on both Gregg Avenue and Elm Street.

e. The degree to which the proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans.

Given the properties close proximity to services located along the Gregg Avenue Corridor, development of the property under the rules and regulations set forth in the RI-U District would be highly consistent with land use planning objectives, principles, and policies. The RI-U District will make possible development that is in strict accordance with City Neighborhood Areas while providing the flexibility needed to create an appropriate and compatible transition to the Residential Neighborhood Areas to the east.

The property has an infill rating of 9 and 8. The higher infill rating coupled with close proximity to transit closely fits the RI-U districts intended purpose to provide a range of housing types compatible in scale with single-family homes. The rules and regulations set forth in the RI-U District also make possible a development form that will discourage suburban sprawl and make compact, complete, and connected development the standard. Those same rules and regulations will also make possible more preservation of land.

f. Whether the proposed zoning is justified and/or needed at the time of the request.

The proposed zoning is needed at this time in order to ensure that future development on the property is more in accordance with the principles of City Plan 2040.

g. Whether the proposed zoning will create or appreciably increase traffic danger and congestion.

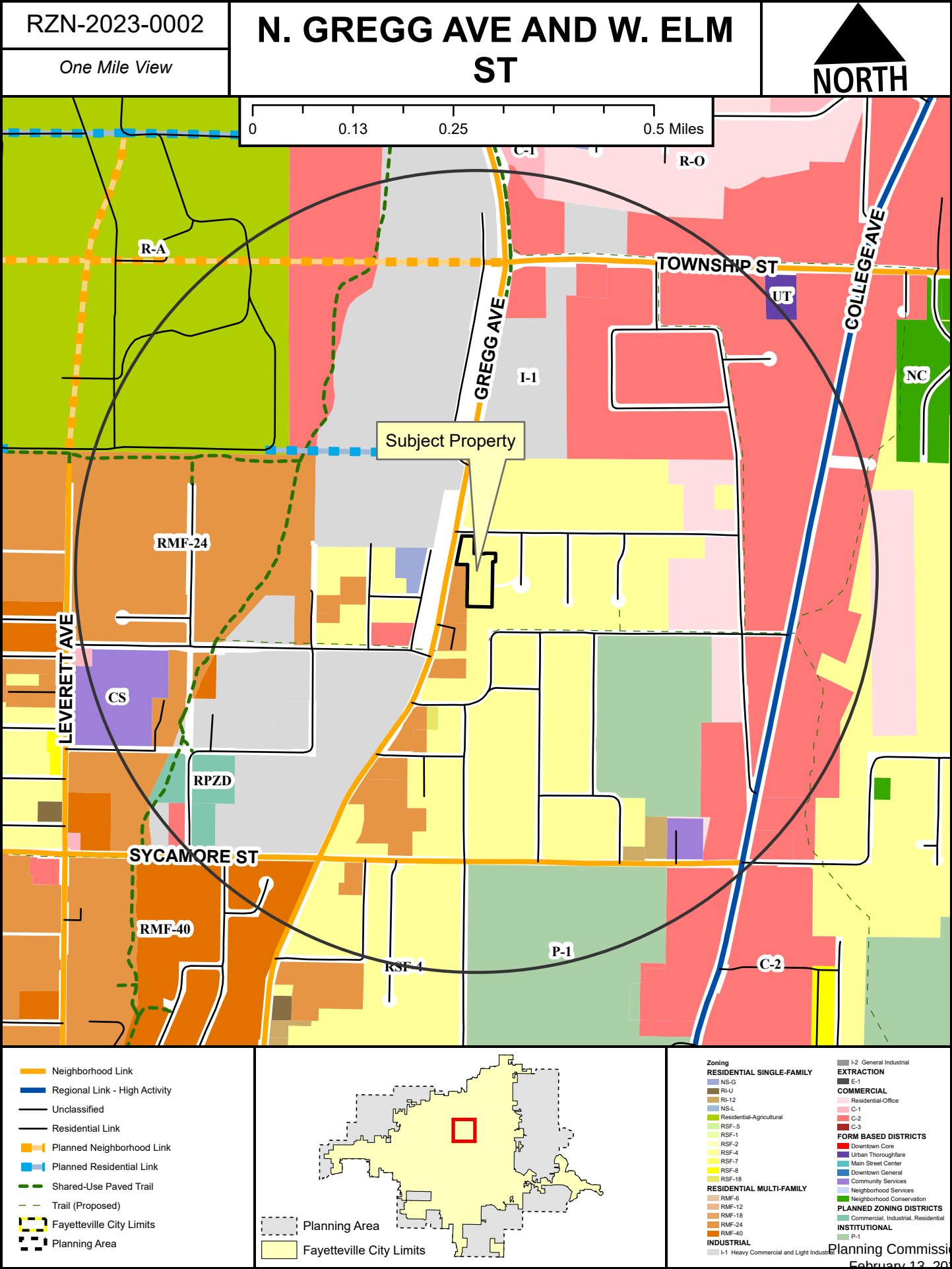
The proposed zoning will not create or appreciably increase traffic danger or congestion. The Gregg Avenue corridor can easily and safely accommodate any new traffic generated from development of the property.

h. Whether the proposed zoning will alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities.

With only 1.71 acres proposed for rezoning to the RI-U District, the proposed zoning will not alter the population density in a way that would significantly increase the load on public services.

i. Why it would be impractical to use the land for any of the uses permitted under its existing zoning classification.

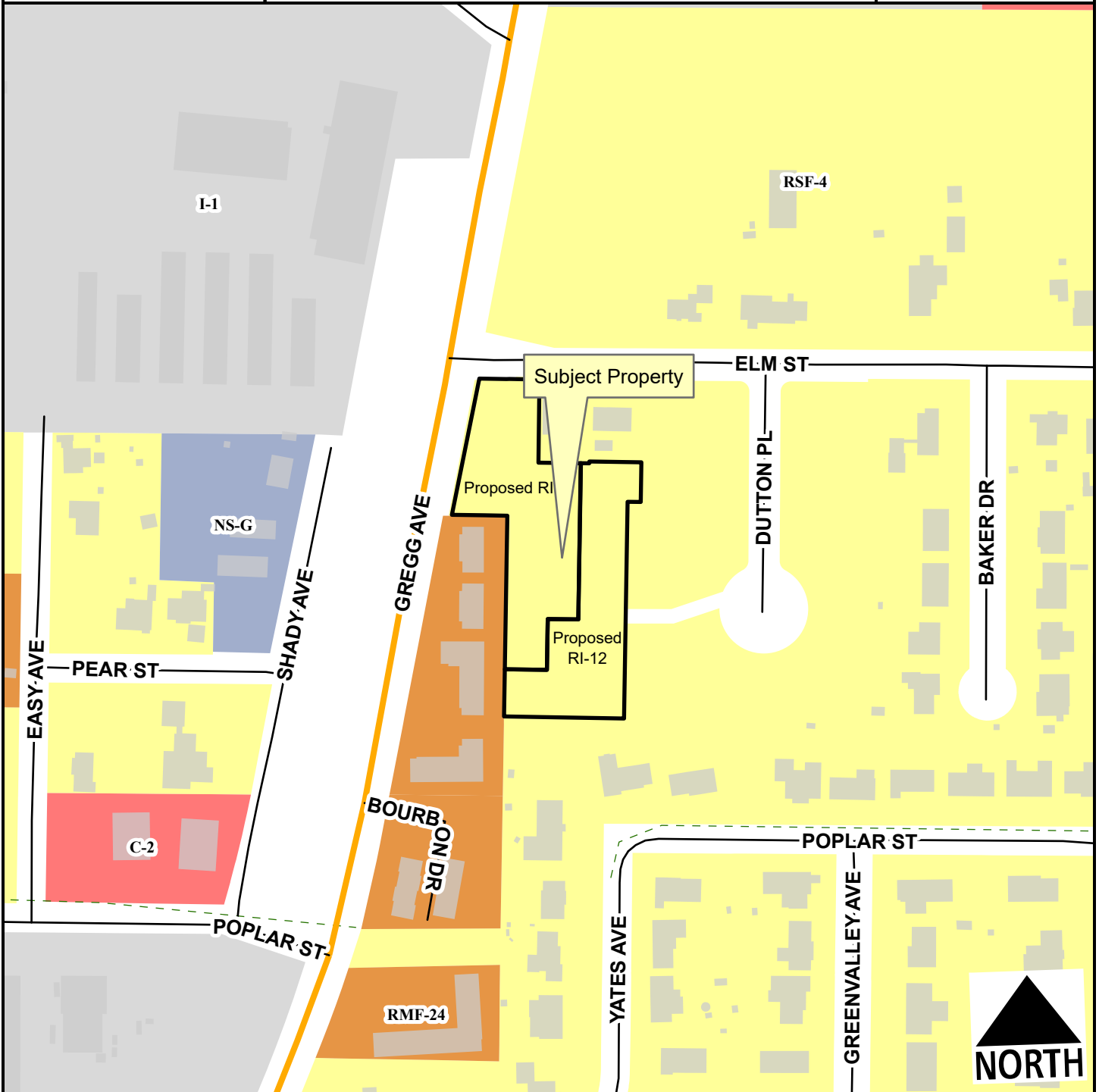
The proposed zoning will encourage a development use and form that is more in accordance with City Plan 2040 and contribute to the environmental, economic, and social benefits that City Plan 2040 offers.



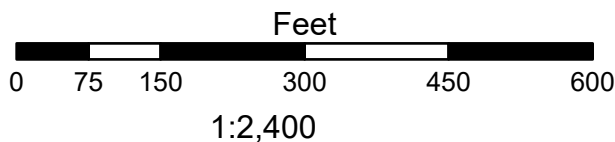
RZN-2023-0002

Close Up View

N. GREGG AVE AND W. ELM ST



- Neighborhood Link
- Residential Link
- Planned Residential Link
- Trail (Proposed)
- Planning Area
- Fayetteville City Limits



Zone	Current	Proposed
RI-U	0.0	1.7
RSF-4	1.7	0.0

Total 1.7 ac
Planning Commission
February 13, 2023

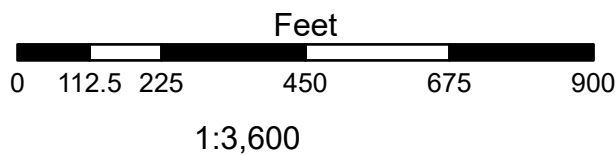
RZN-2023-0002

N. GREGG AVE AND W. ELM ST

Current Land Use



- Neighborhood Link
- Residential Link
- Planned Residential Link
- Trail (Proposed)
- Planning Area
- Fayetteville City Limits

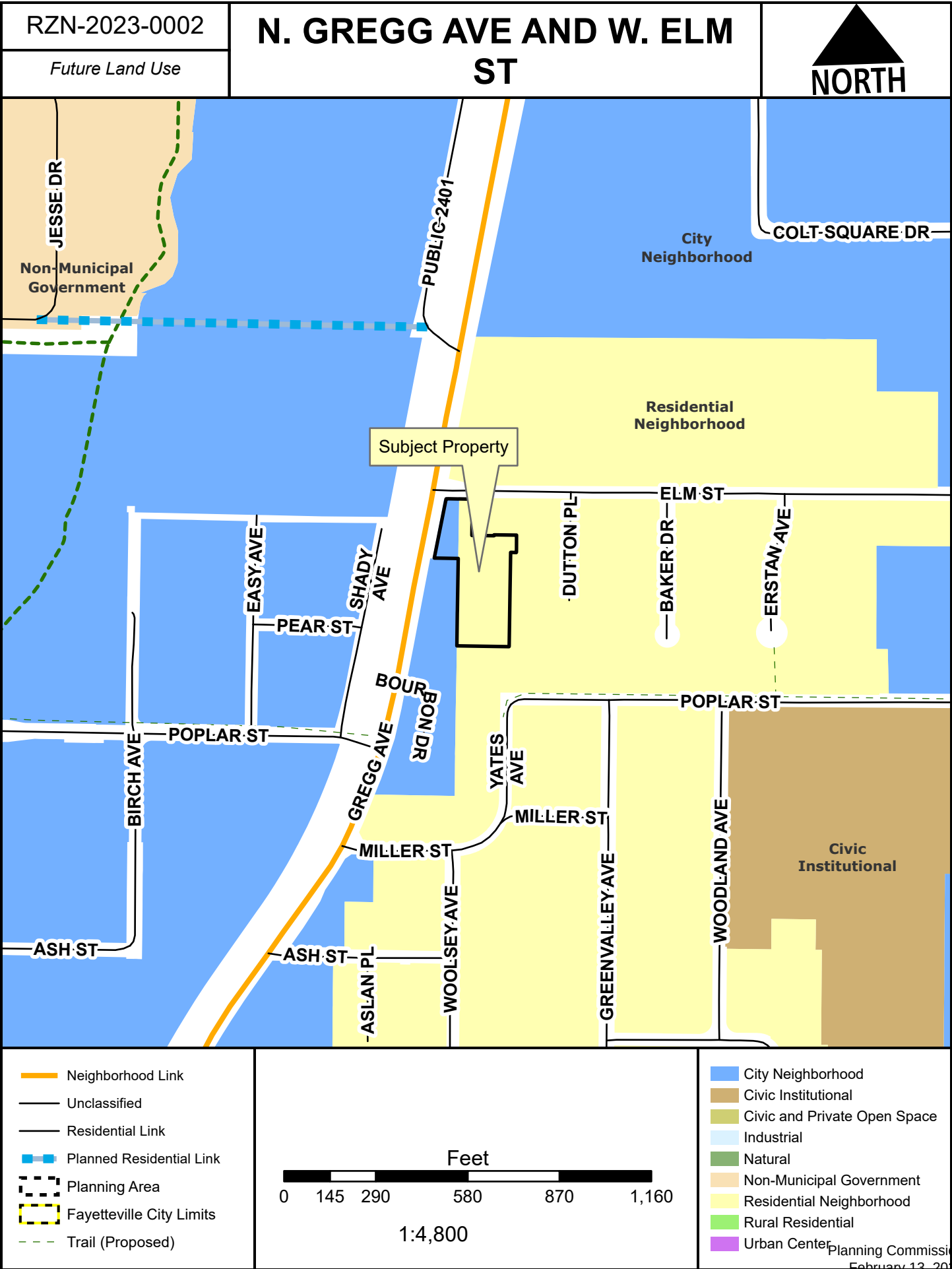


FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway

Planning Commission
February 13, 2023

RZN-2023-0002 (LEGACY VENTURES LLC)





MEETING OF MARCH 21, 2023

TO: Mayor Jordan and City Council
THRU: Susan Norton, Chief of Staff
FROM: Missy Cole, Human Resources Director
DATE:
SUBJECT: Fayetteville Fire Department Incentive Plan

RECOMMENDATION:

Staff recommend City Council approve the Fire Department Incentive Plan and a budget adjustment.

BACKGROUND:

The City of Fayetteville conducts a biennial survey of Fire and Police Pay and Benefits using the methodology set forth in 2017 by the City Council Ad Hoc Pay Plan Committee. The methodology defined survey data sources (Bentonville, Rogers, Springdale, Jonesboro and Lawrence, KS); survey frequency (odd years) and benefits (retirement, medical/dental, time off in excess of statutory requirements, certification pay, and longevity pay). The biennial Fire and Police Pay and Benefits survey was completed in 2023 by JER HR Group.

DISCUSSION:

The 2023 final report on the benefits surveyed identified areas for improvement for Fire Department Incentive and Assignment Pay to remain competitive in the job market in the areas of Longevity Pay, Education Pay and Certification/Assignment Pay.

- Longevity Pay – four of the five data sources offer longevity pay
- Education Pay – three of the five data sources offer education pay
- Education Pay and Certification/Assignment Pay – four of the five data sources offer Certification/Assignment Pay

Fayetteville Fire Department does not currently offer these types of incentives. The proposed incentive plan is attached. Chief Hardin's memo outlines the value-added service of each of the certifications for the Fayetteville Fire Department and the community. Offering these incentives will allow market competitiveness for the fire department, help with the retention of staff in the specialized assignments, encourage pursuit of higher education within the department and provide the community with well-trained and certified personnel in the areas of Aircraft Rescue & Firefighting (ARFF), Haz-mat/Weapons of Mass Destruction/Urban Search and Rescue, Emergency Response Team, Field Training Officers and Peer-to-Peer Wellness/Fitness Trainers as well as provide incentive for bi-lingual certification to better communicate with Fayetteville's diverse population.

Mailing address:

113 W. Mountain Street
Fayetteville, AR 72701

www.fayetteville-ar.gov

BUDGET/STAFF IMPACT:

\$404,000.00 from the General Fund

ATTACHMENTS: 2023-503 SRF Fire Incentive Pay, 2023-503 BA FIRE INCENTIVE PAY, 2023 Fayetteville Fire Department Incentive Plan, Memo from Fire Chief

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 #: 2023-503

Fayetteville Fire Department Incentive Plan

A RESOLUTION TO APPROVE THE FIRE DEPARTMENT INCENTIVE PLAN, AND TO APPROVE A BUDGET ADJUSTMENT

WHEREAS, the 2023 Fire and Police Pay and Benefits Study completed by JER HR Group was approved by the City Council on March 7, 2023; and

WHEREAS, the study identified areas for improvement for the Fire Department to remain competitive in the job market with respect to incentive pay for longevity, education, and certification/assignment; and

WHEREAS, offering these incentives will allow market competitiveness for the Fire Department, help with the retention of staff in specialized assignments, encourage pursuit of higher education within the department, provide the community with well-trained and certified personnel in the areas of Aircraft Rescue & Firefighting, Haz-mat/Weapons of Mass Destruction/Urban Search and Rescue, Emergency Response Team, Field Training Officers and Peer-to-Peer Wellness/Fitness Trainers, as well as provide incentive for bi-lingual certification to better communicate with Fayetteville's diverse 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 approves the Fire Department Incentive Plan, a copy of which is attached to this Resolution.

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

2023-503

Item ID

3/21/2023

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

Missy Cole

3/1/2023

HUMAN RESOURCES (120)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Staff recommend City Council approve the Fire Department Incentive Plan and a budget adjustment.

Budget Impact:

1010.300.xxxx-51xx.xx

1010 - General

Account Number

Fund

Project Number

Project Title

Budgeted Item? Yes

Total Amended Budget

\$ 14,122,784.00

Expenses (Actual+Encum)

\$ 2,050,884.40

Available Budget

\$ 12,071,899.60

Does item have a direct cost? No

Item Cost

\$ -

Is a Budget Adjustment attached? Yes

Budget Adjustment

\$ 404,000.00

Remaining Budget

\$ 12,475,899.60

V20221130

Purchase Order Number:

Previous Ordinance or Resolution #

Change Order Number:

Approval Date:

Original Contract Number:

Comments:

City of Fayetteville, Arkansas - Budget Adjustment (Agenda)

Budget Year 2023	Division /Org2 BUDGET & INFORMATION MGMT (133) Requestor: Kevin Springer	Adjustment Number
--------------------------------	---	--------------------------

BUDGET ADJUSTMENT DESCRIPTION / JUSTIFICATION:

\$404,000 is being requested from the General Fund Use of Fund Balance account to fund a new Uniformed Fire Incentive Pay program. The cost of the program is broken out into the following:

Longevity Pay: \$171,300, Education Pay: \$68,800, and Specialized Teams Pay: \$163,900.

RESOLUTION/ORDINANCE	COUNCIL DATE:	3/21/2023
	ITEM ID#:	2023-503
	<i>Kevin Springer</i>	
	<i>2/28/2023 1:25 PM</i>	
	Budget Division	Date
	TYPE:	D - (City Council)
	JOURNAL #:	
	GLDATE:	
	CHKD/POSTED:	/

TOTAL	404,000	404,000	v.2023223			
	Increase / (Decrease)		Project.Sub#			
Account Number	Expense	Revenue	Project	Sub.Detl	AT	Account Name
1010.300.3020-5102.26	125,400	-			EX	Uniformed Salaries - Longevity Pay
1010.300.3020-5103.10	8,300	-			EX	Uniformed Overtime - Uniformed
1010.300.3020-5109.05	37,600	-			EX	Pension - LOPFI Fire
1010.300.3020-5102.27	49,900	-			EX	Uniformed Salaries - Education Pay
1010.300.3020-5103.10	3,800	-			EX	Uniformed Overtime - Uniformed
1010.300.3020-5109.05	15,100	-			EX	Pension - LOPFI Fire
	-	-				
1010.300.3020-5102.28	122,400	-			EX	Uniformed Salaries - Specialized Pay
1010.300.3020-5103.10	5,400	-			EX	Uniformed Overtime - Uniformed
1010.300.3020-5109.05	36,100	-			EX	Pension - LOPFI Fire
1010.001.0001-4999.99	-	404,000			RE	Use Fund Balance - Current
	-	-				
	-	-				
	-	-				

2023 Fayetteville Fire Department Incentive Plan

Longevity Pay

Length of Service	Annual Amount
05-09 yrs	700
10+ yrs	1,400
15+ yrs	2,100
20+ yrs	2,800
25+ yrs	3,500

Education Pay Analysis:

Degree Type	Per Payperiod
Associates	25
Bachelors	100
Masters	150

Certification / Assignment Pay:

Incentive Type	% of hourly pay
Hazmat Tech	2%
Hazmat Team Leader	4%
ARFF Certified	2%
ARFF Team Leader	4%
ERT Team	2%
Peer to Peer Team	2%
FTO	2%
Bilingual	2%



MEETING OF MARCH 21, 2023

TO: Mayor and City Council
FROM: Brad Hardin, Fire Chief
DATE: February 27, 2023
SUBJECT: Fayetteville Fire Department Incentive Plan

BACKGROUND:

The Firefighters Association brought pay incentives to my attention after the conclusion of the 2021 pay study. I asked that they wait until the next pay study cycle, and we would work to add the incentives. In early 2022 we worked on the narrowing down the various incentives offered by the other fire departments. The incentives that were most sought after were Longevity and Education. Secondly, we wanted to compensate those individuals who took on more responsibility. The following is a summary of each responsibility:

Aircraft Rescue Firefighting (ARFF):

The Fayetteville Fire Department is required by the FAA to guarantee that a minimum of two ARFF personnel are on duty at all times and available to respond to the airport. This staffing level is required in order to maintain our airport's CFR139 Index A certification level. Each of the ARFF personnel must be certified by the FAA and maintain a level of training that is outside of their normal firefighter job requirements. The FAA performs an annual audit of our staffing, training certificates, and an onsite inspection to test their skills and abilities. Due to the certifications and additional training, one person on the 30 member team will be tasked with organizing training and certificates to ensure compliance.

Hazmat, Weapons of Mass Destruction (WMD), and Urban Search and Rescue (USAR):

As part of regional and county agreements, we are tasked with staffing the Hazmat/WMD/USAR apparatus with personnel certified to respond to hazardous materials and urban search and rescue incidents. The City of Fayetteville was chosen to host the Hazmat/WMD team by the Department of Homeland Security due to the City of Fayetteville having the highest SEAR (Special Events Assessment Rating) score in the region. The Hazmat/WMD team responds to the 13 counties in northern Arkansas. The USAR team is staffed jointly throughout the region and responds to the northwestern half of the state. These personnel are required to maintain extra training and certifications in line with requirements set forth by the Arkansas Department of Emergency Management and DHS. This training is outside of their normal firefighter job requirements. Due to the certifications and additional training, two people on the 40 member team will be tasked with organizing training and certificates to ensure compliance.

Peer to Peer Wellness/Fitness Trainers:

With additional focus on mental and physical health, we have a group who have received extra training in recognizing and referring personnel who are experiencing instances of difficulty. These personnel are often available while off-duty. Additionally, our fitness trainers have been certified by outside agencies to recommend fitness programs and perform fitness assessments. All of these members are functioning above their normal training.

Emergency Response Team (ERT):

Four members of our department train and deploy with the police department's Emergency Response Team. They are required to maintain the same training levels as the police officers and also be trained to Advanced EMT in order to render care to a member of the team who may become injured at an incident.

Field Training Officers:

One member of each shift (3 total) is tasked with organizing day-to-day shift training outside of the scheduled training. This often includes overseeing training for reserve drivers and ensuring new personnel are able to perform to standards. The field training officers spend an immense amount of time training our new personnel during the academy and during their first year.



MEETING OF MARCH 21, 2023

TO: Mayor Jordan and City Council

THRU: Susan Norton, Chief of Staff
Jonathan Curth, Development Services Director
Jessica Masters, Development Review Manager

FROM: Ryan Umberger, Senior Planner

DATE:

SUBJECT: **RZN-2023-0003: Rezoning (1275 N. GREGG AVE/PATHWAY BAPTIST CHURCH, 405): Submitted by BLEW & ASSOCIATES for property located at 1275 N. GREGG AVE in WARD 2. The property is zoned RMF-24, RESIDENTIAL MULTI-FAMILY – TWENTY FOUR UNITS PER ACRE and contains approximately 2.24 acres. The request is to rezone the property to RMF-40, RESIDENTIAL MULTI-FAMILY – 40 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 located roughly 350 feet north of the intersection of W. North Avenue and N. Gregg Avenue. The site covers roughly the southern half of a single lot of record totaling approximately 2.24 acres. The property is zoned RMF-24, Residential Multi-Family, 24 Units per Acre and currently the site of Central Baptist Church, a single-family dwelling, and associated outbuildings.

Request: The request is to rezone the property from RMF-24, Residential Multi-Family, 24 Units per Acre to RMF-40, Residential Multi-Family, 40 Units per Acre.

Public Comment: Staff received public comment in support of the request. The commenter stated they were in favor of additional density along the Gregg Avenue corridor.

Land Use Compatibility: Staff finds the request to be compatible with the surrounding mix of uses. The surrounding area includes two multi-family developments, a church, and single-family dwellings across N. Gregg Avenue to the east. The permitted and conditional uses are identical between RMF-40 and RMF-24. Staff also finds that the bulk and area regulations are suitable and not out of context with surrounding properties. Single- and two-family lot widths and areas are required to be slightly larger in RMF-24 than in RMF-40 but otherwise the two districts are very similar. Setbacks and maximum building heights are identical. Given that the site adjoins other multi-family developments and zoning entitlements, staff finds the scale of what would be allowed is contextually appropriate. Single-family dwellings are prevalent in the area, but they are separated from the site by the intervening public street. Based on a simple calculation of the acreage of the

Mailing address:

113 W. Mountain Street
Fayetteville, AR 72701

www.fayetteville-ar.gov

site, and notwithstanding requirements for drainage, tree preservation, and parking, the increased density would allow for 89 total units across the site where the current zoning would allow 53 units to be developed. Staff finds the increased density is suitable due to the site's proximity to schools, work, jobs, and a multi-modal transportation network. Further the increased density is unlikely to have a noticeably different impact to the immediately surrounding multi-family developments.

Land Use Plan Analysis: Staff finds the proposal to be consistent with the goals in City Plan 2040 and the future land use designation for this location. Rezoning from RMF-24 to RMF-40 serves to contribute towards City Plan 2040 goals #1 – Appropriate Infill and 4 – Growing a Livable Transportation Network. The site scores high on the Infill Scoring Matrix indicating that the site, as its currently developed, is not meeting its highest and best use. The proposed rezoning would locate additional residential density near groceries, two city parks, and between two significant employers: the veteran's hospital to the northeast and the University of Arkansas main campus less than a half-mile to the south, as well as the nearby transit route and trail.

CITY PLAN 2040 INFILL MATRIX: City Plan 2040's Infill Matrix indicates 10 attributes for this site that may contribute to appropriate infill. The following elements of the matrix contribute to the score:

- Adequate Fire Response (Station #2, 708 N. Garland Avenue)
- Near Sewer Main (8" sewer main, N. Gregg Avenue)
- Near Water Main (8" water main, N. Gregg Avenue)
- Near Grocery Store (Harps, 1189 N. Garland Avenue)
- Near City Park (Wilson Park, Gregory Park)
- Near Paved Trail (Scull Creek Trail)
- Near University of Arkansas Main Campus
- Near Ozark Regional Transit Stop (Route 10, N. College Avenue)
- Near Razorback Bus Stop (Route 26 Peak, N. Leverett Avenue)
- Appropriate Future Land Use (City Neighborhood Area)

DISCUSSION:

At the February 27, 2023 Planning Commission meeting, a vote of 8-0-0 forwarded the request to City Council with a recommendation of approval. Commissioner Brink made the motion and Commissioner Garlock seconded. Commissioners discussed whether rezoning to CS, Community Services would be a more compatible request. Members discussed differences in setbacks, building area, and density limitations between RMF-40 and CS. After the applicant confirmed that the prospective buyers of the property intended to rezone to RMF-40, the motion was made to forward the item as requested. No members of the public spoke during the meeting.

BUDGET/STAFF IMPACT:

N/A

ATTACHMENTS: SRF, Exhibit A, Exhibit B, Planning Commission Staff Report

Mailing address:

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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 #: 2023-500

RZN-2023-0003: Rezoning (1275 N. GREGG AVE/PATHWAY BAPTIST CHURCH, 405): Submitted by BLEW & ASSOCIATES for property located at 1275 N. GREGG AVE in WARD 2. The property is zoned RMF-24, RESIDENTIAL MULTI-FAMILY – TWENTY FOUR UNITS PER ACRE and contains approximately 2.24 acres. The request is to rezone the property to RMF-40, RESIDENTIAL MULTI-FAMILY – 40 UNITS PER ACRE.

AN ORDINANCE TO REZONE THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 23-003 LOCATED AT 1275 NORTH GREGG AVENUE IN WARD 2 FOR APPROXIMATELY 2.24 ACRES FROM RMF-24, RESIDENTIAL MULTI-FAMILY, 24 UNITS PER ACRE TO RMF-40, RESIDENTIAL MULTI-FAMILY, 40 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 RMF-24, Residential Multi-Family, 24 Units Per Acre to RMF-40, Residential Multi-Family, 40 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

2023-500

Item ID

3/21/2023

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

Jonathan Curth

3/3/2023

DEVELOPMENT REVIEW (630)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

RZN-2023-0003: Rezoning (1275 N. GREGG AVE/PATHWAY BAPTIST CHURCH, 405): Submitted by BLEW & ASSOCIATES for property located at 1275 N. GREGG AVE in WARD 2. The property is zoned RMF-24, RESIDENTIAL MULTI-FAMILY – TWENTY FOUR UNITS PER ACRE and contains approximately 2.24 acres. The request is to rezone the property to RMF-40, RESIDENTIAL MULTI-FAMILY – 40 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:

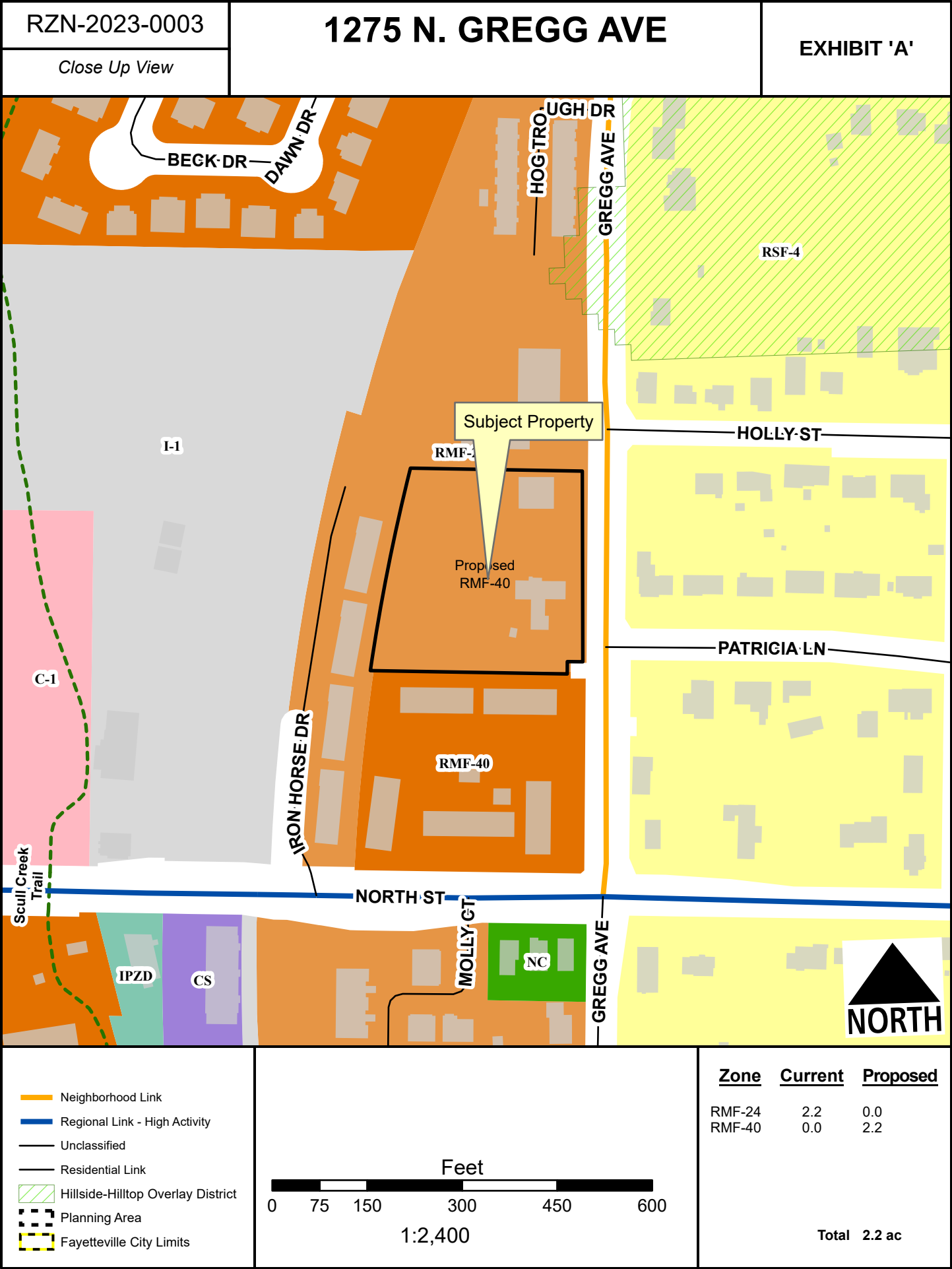
Previous Ordinance or Resolution #

Change Order Number:

Approval Date:

Original Contract Number:

Comments:



BLEW & ASSOCIATES, PA
CIVIL ENGINEERS & LAND SURVEYORS

As-Surveyed Description

TRACT 1

A PART OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 9, TOWNSHIP 16 NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE

PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT:

COMMENCING AT A SET MAG NAIL FOR THE SOUTHEAST CORNER OF SAID FORTY ACRE TRACT, THENCE ALONG THE EAST LINE OF SAID FORTY ACRE TRACT N02°43'21"E 350.00',

THENCE LEAVING SAID EAST LINE N87°01'36"W 60.51' TO A SET 1/2" REBAR ON THE WEST RIGHT-OF-WAY LINE OF NORTH GREGG AVENUE, BEING THE TRUE POINT OF

BEGINNING; THENCE LEAVING SAID RIGHT-OF-WAY LINE N87°01'36"W 310.85' TO A SET 1/2" REBAR; THENCE ALONG A CURVE TO THE RIGHT, WITH AN ARC LENGTH OF 325.88',

HAVING A RADIUS OF 3269.75', WITH A CHORD BEARING AND DISTANCE OF N13°12'29"E 325.75' TO A SET 1/2" CAPPED REBAR; THENCE S87°01'36"E 271.30' TO A SET 1/2" REBAR

ON THE WEST RIGHT-OF-WAY LINE OF NORTH GREGG AVENUE; THENCE ALONG SAID RIGHT-OF-WAY LINE THE FOLLOWING COURSES: S01°50'19"W 301.06' TO A SET 1/2" REBAR;

THENCE N87°35'39"W 24.48' TO A SET 1/2" REBAR; THENCE S02°24'21"W 19.32' TO THE POINT OF BEGINNING, CONTAINING 2.242 ACRES, MORE OR LESS. SUBJECT TO ALL

EASEMENTS AND RIGHTS-OF-WAY OF RECORD



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Ryan Umberger, Senior Planner

MEETING DATE: February 27, 2023 (Updated with Planning Commission Results)

SUBJECT: **RZN-2023-0003: Rezoning (1275 N. GREGG AVE/PATHWAY BAPTIST CHURCH, 405):** Submitted by BLEW & ASSOCIATES for property located at 1275 N. GREGG AVE. The property is zoned RMF-24, RESIDENTIAL MULTI-FAMILY – TWENTY FOUR UNITS PER ACRE and contains approximately 2.24 acres. The request is to rezone the property to RMF-40, RESIDENTIAL MULTI-FAMILY – 40 UNITS PER ACRE.

RECOMMENDATION:

Staff recommends forwarding **RZN-2023-0003** to City Council with a recommendation of approval.

RECOMMENDED MOTION:

"I move to forward **RZN-2023-0003** to City Council with a recommendation of approval."

BACKGROUND:

The subject property is located roughly 350 feet north of the intersection of W. North Avenue and N. Gregg Avenue. The site covers roughly the southern half of a single lot of record totaling approximately 2.24 acres. The property is zoned RMF-24, Residential Multi-Family, 24 Units per Acre and currently the site of Central Baptist Church, a single-family dwelling, and associated outbuildings. Surrounding land uses and zoning is depicted in *Table 1*.

Table 1
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Central Baptist Church	RMF-24, Residential Multi-Family, 24 Units per Acre
South	Multi-family Residential	RMF-40, Residential Multi-Family, 40 Units per Acre
East	Single-Family Residential/Undeveloped	RSF-4, Residential Single-Family, 4 Units per Acre
West	Multi-family Residential	RMF-24, Residential Multi-Family, 24 Units per Acre

Request: The request is to rezone the property from RMF-24, Residential Multi-Family, 24 Units per Acre to RMF-40, Residential Multi-Family, 40 Units per Acre.

Public Comment: Staff received public comment in support of the request. The commenter stated they were in favor of additional density along the Gregg Avenue corridor.

INFRASTRUCTURE AND ENVIRONMENTAL REVIEW

- Streets:** The subject area has frontage along N. Gregg Avenue. N. Gregg Avenue is a partially-improved Neighborhood Link Street with asphalt paving, curb and gutter, and sidewalk located at the back of curb. Any street improvements required in these areas would be determined at the time of development proposal.
- Water:** Public water is available to the subject area. An existing 8-inch water main is present on the west side of N. Gregg Avenue.
- Sewer:** Sanitary Sewer is available to the subject area. An existing 8-inch sanitary sewer main is present in the center of N. Gregg Avenue.
- Fire:** Station 2, located at 708 N. Garland Avenue protects this site. The property is located approximately 0.9 miles from the fire station with an anticipated drive time of approximately three 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 expressed no concerns with this request.
- Drainage:** There are no protected streams present in the subject area, no portion of the site lies within a FEMA floodplain, it is not within the Hillside-Hilltop Overlay District, nor are there any hydric soils present on the site. Any additional improvements or requirements for drainage will be determined at time of development.

Tree Preservation:

The proposed zoning district of RMF-40, Residential Multi-Family, 40 Units per Acre requires **20% minimum canopy preservation**. The current zoning district of RMF-24, Residential Multi-Family, 24 Units per Acre requires **20% 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 a **City Neighborhood Area**.

City Neighborhood Areas are more densely developed than residential neighborhood areas and provide a varying mix of nonresidential and residential uses. This designation supports the widest spectrum of uses and encourages density in all housing types, from single family to multi-family. City Neighborhood Areas encourage complete, compact and connected neighborhoods and non-residential uses are intended to serve the residents of Fayetteville, rather than a regional population. While they encourage dense development patterns, they do recognize existing conventional strip commercial developments and their potential for future redevelopment in a more efficient urban layout.

CITY PLAN 2040 INFILL MATRIX: City Plan 2040's Infill Matrix indicates a score of **9-10** for this site, with a weighted score of **13**. The following elements of the matrix contribute to the score:

- Adequate Fire Response (Station #2, 708 N. Garland Avenue)
- Near Sewer Main (8" sewer main, N. Gregg Avenue)
- Near Water Main (8" water main, N. Gregg Avenue)
- Near Grocery Store (Harps, 1189 N. Garland Avenue)
- Near City Park (Wilson Park, Gregory Park)
- Near Paved Trail (Scull Creek Trail)
- Near University of Arkansas Main Campus
- Near Ozark Regional Transit Stop (Route 10, N. College Avenue)
- Near Razorback Bus Stop (Route 26 Peak, N. Leverett Avenue)
- Appropriate Future Land Use (City Neighborhood Area)

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 request to be compatible with the surrounding mix of uses. The surrounding area includes two multi-family developments, a church, and single-family dwellings across N. Gregg Avenue to the east. The permitted and conditional uses are identical between RMF-40 and RMF-24. Staff also finds that the bulk and area regulations are suitable and not out of context with surrounding properties. Single- and two-family lot widths and areas are required to be slightly larger in RMF-24 than in RMF-40 but otherwise the two districts are very similar. Setbacks and maximum building heights are identical. Given that the site adjoins other multi-family developments and zoning entitlements, staff finds the scale of what would be allowed is contextually appropriate. Single-family dwellings are prevalent in the area, but they are separated from the site by the intervening public street. Based on a simple calculation of the acreage of the site, and notwithstanding requirements for drainage, tree preservation, and parking, the increased density would allow for 89 total units across the site where the current zoning would allow 53 units to be developed. Staff finds the increased density is suitable due to the site's proximity to schools, work, jobs, and a multi-modal transportation network. Further the increased density is unlikely to have a noticeably different impact to the immediately surrounding multi-family developments.

Land Use Plan Analysis: Staff finds the proposal to be consistent with the goals in City Plan 2040 and the future land use designation for this location. Rezoning from RSF-4 to RI-12 serves to contribute towards City Plan 2040 goals #1 – Appropriate Infill and 4 – Growing a Livable Transportation Network. The site scores high on the Infill Scoring Matrix indicating that the site, as its currently developed, is not meeting its highest and best use. The proposed rezoning would locate additional residential density near groceries, two city parks, and between two significant employers: the veteran's hospital to the northeast and the University of Arkansas main

campus less than a half-mile to the south, as well as the nearby transit route and trail.

2. A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed.

Finding: Staff believes that there is sufficient justification for rezoning the property to RMF-40. The request aligns with the future land use map and would increase density at a site proximate to many non-residential services. Further staff finds the existing transportation network can appropriately handle additional density since it is located along a Neighborhood Link Street with many options for alternative modes of transportation.

3. A determination as to whether the proposed zoning would create or appreciably increase traffic danger and congestion.

Finding: Rezoning the property to RMF-40 will potentially increase traffic at this location, though the increase is not anticipated to be beyond what is appropriate. The site has adequate space between driveways to the north and south for an access point to be compliant with curb cut separation standards. Conversely, Neighborhood Link Streets have a designed service capacity of 6,000 vehicles per day or fewer. The Arkansas Department of Transportation recorded an average annual daily traffic count of 9,400 vehicles at a point just south of the site. Two accidents have been recorded along the property's frontage between 2017 and 2021 with the intersection of N. Gregg Avenue and W. North Street, roughly 350 feet to the south, witnessing much more frequent collisions. Nearby access to trails and transit stops also offer alternative modes that would help to offset traffic effects associated with an increase to the number of dwelling units at this location. Any new development would also be required to improve the property's frontage to the 2040 Master Street Plan requirements, including 10-foot greenspaces and 8-foot sidewalks, which staff finds would complement the non-motorized transportation network.

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: Rezoning the property to RMF-40 would increase the load on public services above the potential of the current zoning district, but the impact is not expected to be significant. The site has ready access to basic development standards including city water, sewer, and improved street frontage. Neither Fayetteville Public Schools or Fayetteville Police offered comment regarding the 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 recommends approval of RZN-2023-0003.

PLANNING COMMISSION ACTION: Required <u>YES</u>			
Date: <u>February 27, 2023</u>	☐ Tabled	☒ Forwarded	☐ Denied
Motion: Brink			
Second: Garlock			
Recommending approval.			
Vote: 8-0-0			

BUDGET/STAFF IMPACT:

None

Attachments:

- Unified Development Code:
 - §161.16 District RMF-24, Residential Multi-Family – Twenty-Four (24) Units Per Acre
 - §161.16 District RMF-40, Residential Multi-Family – Forty (40) Units Per Acre
- Applicant Request Letter
- Public Comment
- One Mile Map
- Close-up Map
- Current Land Use Map
- Future Land Use Map

161.16 District RMF-24, Residential Multi-Family - Twenty-Four (24) Units Per Acre

(A) *Purpose.* The RMF-24 Multi-family Residential District is designed to permit and encourage the developing of a variety of dwelling types in suitable environments in a variety of densities.

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three (3) and four (4) family dwellings
Unit 26	Multi-family dwellings
Unit 41	Accessory dwellings
Unit 44	Cluster Housing Development
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 11	Manufactured home park
Unit 12a	Limited business
Unit 24	Home occupations
Unit 25	Professional offices
Unit 36	Wireless communications facilities

(C) *Density.*

Units per acre	24 or less
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(D) *Bulk and Area Regulations.*

(1) *Lot Width Minimum.*

Manufactured home park	100 feet
Lot within a Manufactured home park	50 feet
Single-family	35 feet
Two-family	35 feet
Three or more	70 feet
Professional offices	100 feet

(2) *Lot Area Minimum.*

Manufactured home park	3 acres
Lot within a mobile home park	4,200 square feet
Townhouses: Individual lot	2,000 square feet
Single-family	3,000 square feet
Two (2) family	4,000 square feet
Three (3) or more	7,000 square feet
Fraternity or Sorority	2 acres
Professional offices	1 acres

(3) *Land Area Per Dwelling Unit.*

Manufactured Home	3,000 square feet
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(E) *Setback Requirements.*

Front	Side Other Uses	Side Single & Two (2) Family	Rear Other Uses	Rear Single Family
A build-to zone that is located between the front property line and a line 25 feet from the front property line.	8 feet	5 feet	20 feet	5 feet

(F) *Building Height Regulations.*

Building Height Maximum	2 stories/3 stories/5 stories*
-------------------------	--------------------------------

* A building or a portion of a building that is located between 0 and 10 feet from the front property line or any master street plan right-of-way line shall have a maximum height of two (2) stories, between 10—20 feet from the master street plan right-of-way a maximum height of three (3) stories and buildings or portions of the building set back greater than 20 feet from the master street plan right-of-way shall have a maximum height of 5 stories.

If a building exceeds the height of two (2) stories, the portion of the building that exceeds two (2) stories shall have an additional setback from any side boundary line of an adjacent single family district. The amount of additional setback for the portion of the building over two (2) stories shall be equal to the difference between the total height of that portion of the building, and two (2) stories.

(G) *Building Area.* The area occupied by all buildings shall not exceed 50% of the total lot area. Accessory ground mounted solar energy systems shall not be considered buildings.

(H) *Minimum Buildable Street Frontage.* 50% of the lot width.

(Code 1965, App. A., Art. 5(III); Ord. No. 2320, 4-6-77; Ord. No. 2700, 2-2-81; Code 1991, §160.033; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. No. 5028, 6-19-07; Ord. No. 5079, 11-20-07; Ord. No. 5224, 3-3-09; Ord. No. 5262, 8-4-09; Ord. No. 5312, 4-20-10; Ord. No. 5462, 12-6-11; Ord. No. 5495, 4-17-12; Ord. No. 5592, 6-18-13; Ord. No. 5664, 2-18-14; Ord. No. 5800, §1(Exh. A), 10-6-15; Ord. No. 5921, §1, 11-1-16; Ord. No. 5945, §§5, 8, 9, 1-17-17; Ord. No. 6015, §1(Exh. A), 11-21-17; Ord. No. 6245, §2, 10-15-19; Ord. No. 6427, §§1(Exh. C), 2, 4-20-21)

Ord. No. 6427, § 2, adopted April 20, 2021, "determines that this ordinance and all amendments to Code sections ordained or enacted by this ordinance shall automatically sunset, be repealed, terminated, and become void twenty (20) months after the passage and approval of this ordinance, unless prior to that date, the City Council amends this ordinance to repeal this sunset, repeal and termination section."

161.17 District RMF-40, Residential Multi-Family - Forty (40) Units Per Acre

(A) *Purpose.* The RMF-40 Multi-family Residential District is designated to protect existing high density multi-family development and to encourage additional development of this type where it is desirable.

(B) *Uses.*

(1) *Permitted Uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three (3) and four (4) family dwellings
Unit 26	Multi-family dwellings
Unit 41	Accessory dwellings
Unit 44	Cluster Housing Development
Unit 46	Short-term rentals

(2) *Conditional Uses.*

Unit 2	City-wide uses by CUP
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 11	Manufactured home park
Unit 12a	Limited business
Unit 24	Home occupation
Unit 25	Professional offices
Unit 36	Wireless communications facilities

(C) *Density.*

Units per acre	Forty (40) or less
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(D) *Bulk and Area Regulations.*

(1) *Lot Width Minimum.*

Manufactured home park	100 feet
Lot within a Manufactured home park	50 feet
Single-family	30 feet
Two (2) family	30 feet
Three or more	70 feet
Professional offices	100 feet

(2) *Lot Area Minimum.*

Manufactured home park	3 acres
Lot within a mobile home park	4,200 square feet
Townhouses: Individual lot	2,000 square feet
Single-family	2,500 square feet
Two (2) family	3,000 square feet
Three (3) or more	7,000 square feet
Fraternity or Sorority	1 acre

(3) *Land Area Per Dwelling Unit.*

Manufactured Home	3,000 square feet
Fraternity of Sorority	500 square feet per resident

(E) *Setback Requirements.*

Front	Side Other Uses	Side Single & Two (2) Family	Rear Other Uses	Rear Single Family
A build-to zone that is located between the front property line and a line 25 feet from the front property line.	8 feet	5 feet	20 feet	5 feet

(F) *Building Height Regulations.*

Building Height Maximum	2 stories/3 stories/5 stories*
-------------------------	--------------------------------

* A building or a portion of a building that is located between 0 and 10 feet from the front property line or any master street plan right-of-way line shall have a maximum height of two (2) stories, between 10—20 feet from the master street plan right-of-way a maximum height of three (3) stories and buildings or portions of the building set back greater than 20 feet from the master street plan right-of-way shall have a maximum height of 5 stories.

If a building exceeds the height of two (2) stories, the portion of the building that exceeds two (2) stories shall have an additional setback from any side boundary line of an adjacent single family district. The amount of additional setback for the portion of the building over two (2) stories shall be equal to the difference between the total height of that portion of the building, and two (2) stories.

(G) *Building Area.* The area occupied by all buildings shall not exceed 50% of the total lot area. Accessory ground mounted solar energy systems shall not be considered buildings.

(H) *Minimum Buildable Street Frontage.* 50% of the lot width.

(Code 1965, App. A., Art. 5(IV); Ord. No. 2320, 4-5-77; Ord. No. 2700, 2-2-81; Ord. No. 1747, 6-29-70; Code 1991, §160.034; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. No. 5028, 6-19-07; Ord. No. 5224, 3-3-09; Ord. No. 5262, 8-4-09; Ord. No. 5312, 4-20-10; Ord. No. 5462, 12-6-11; Ord. No. 5592, 6-18-13; Ord. No. 5664, 2-18-14; Ord. No. 5800, §1(Exh. A), 10-6-15; Ord. No. 5921, §1, 11-1-16; Ord. No. 5945, §§5, 8, 9, 1-17-17; Ord. No. 6015, §1(Exh. A), 11-21-17; Ord. No. 6245, §2, 10-15-19; Ord. No. 6427, §§1(Exh. C), 2, 4-20-21)

Ord. No. 6427, § 2, adopted April 20, 2021, "determines that this ordinance and all amendments to Code sections ordained or enacted by this ordinance shall automatically sunset, be repealed, terminated, and become void twenty (20) months after the passage and approval of this ordinance, unless prior to that date, the City Council amends this ordinance to repeal this sunset, repeal and termination section."



Blew & Associates, P.A.

Civil Engineers

Professional Land Surveyors

3825 N. Shiloh Dr.
Fayetteville, Arkansas 72703
479-443-4506
Fax 582-1883

January 10, 2023

To Whom It May Concern,

Rezone

Our Client, Pathway Baptist Church, is requesting to rezone the southern tract resulting from a Tract Split, for which Fayetteville Planning has issued a conditional letter of approval. The Rezoning request will be to change from RMF-24 to RMF-40. The southern tract in question is approximately 2.256 acres in size, and currently has multiple existing structures and asphalt parking. The owner's intent is to have this 2.256-acre tract rezoned to RMF-40, then complete the Tract Split. Following these approvals, the newly rezoned RMF-40 property will be sold, and the buyers will initiate the demolition and development permitting processes toward a multifamily development. Fayetteville's General Reference GIS map shows this location, and adjacent properties to the north and the south as "City Neighborhood" under the Future Land Use (2040) layer. Although the City's zoning map shows this property as RMF-24, and the southern adjacent property as RMF-40, this Future Land Use map does not make this differentiation.

If you have any additional questions or comments, feel free to contact our office.

Sincerely,

Nikki Littrell
Senior Project Coordinator
Blew & Associates, P.A.

Umberger, Ryan

From: Planning Shared
Sent: Friday, February 24, 2023 8:17 AM
To: Umberger, Ryan
Subject: FW: RZN-2023-003 support

FYI

Thank you

Mirinda Hopkins
Development Coordinator
Planning Division
City of Fayetteville
479-575-8267

[Website](#) | [Facebook](#) | [Twitter](#) | [Instagram](#) | [YouTube](#)



From: Scott Hill <razorbackscott@gmail.com>
Sent: Friday, February 24, 2023 12:41 AM
To: Planning Shared <planning@fayetteville-ar.gov>
Subject: RZN-2023-003 support

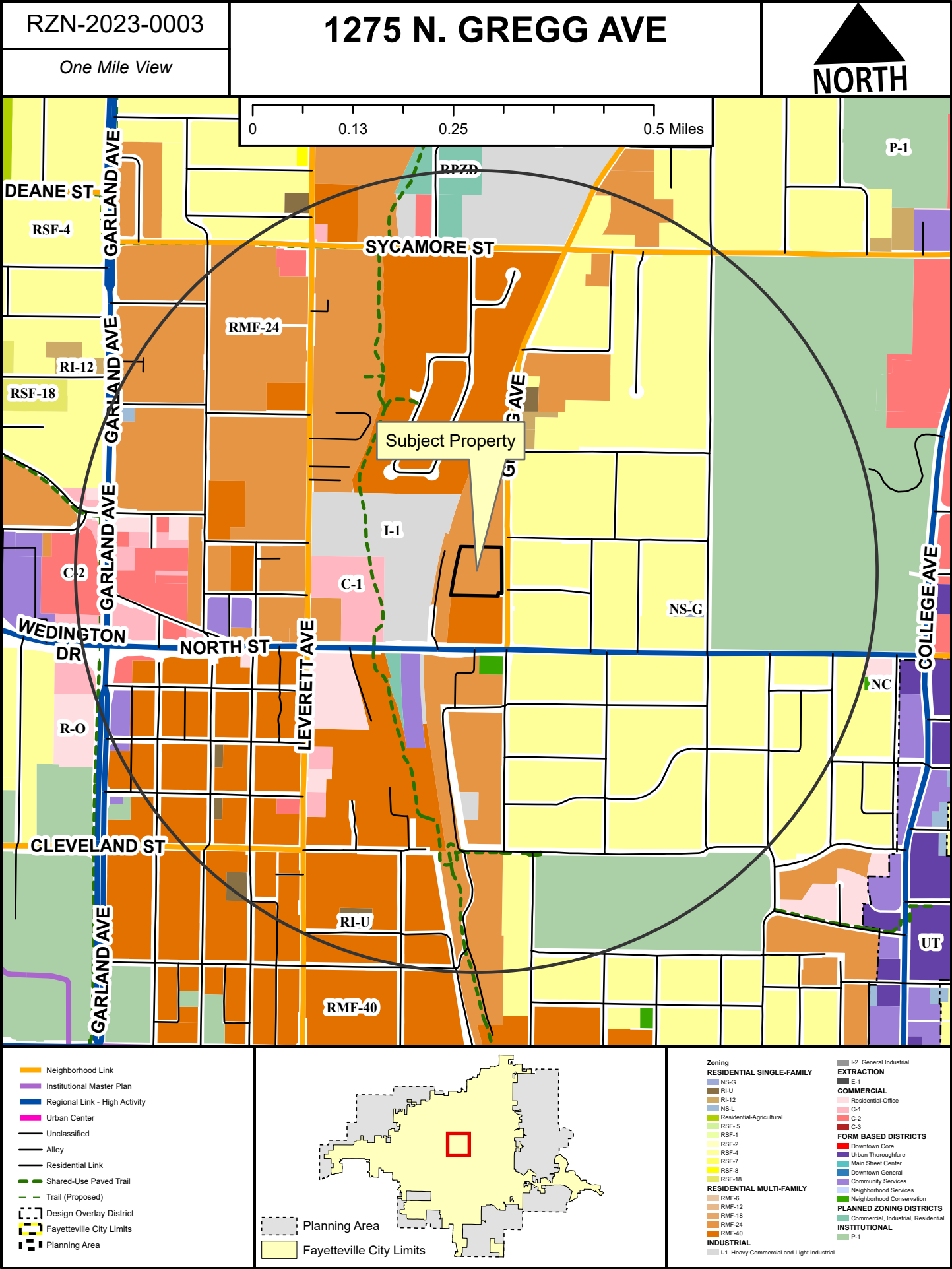
CAUTION: This email originated from outside of the City of Fayetteville. Do not click links or open attachments unless you recognize the sender and know the content is safe.

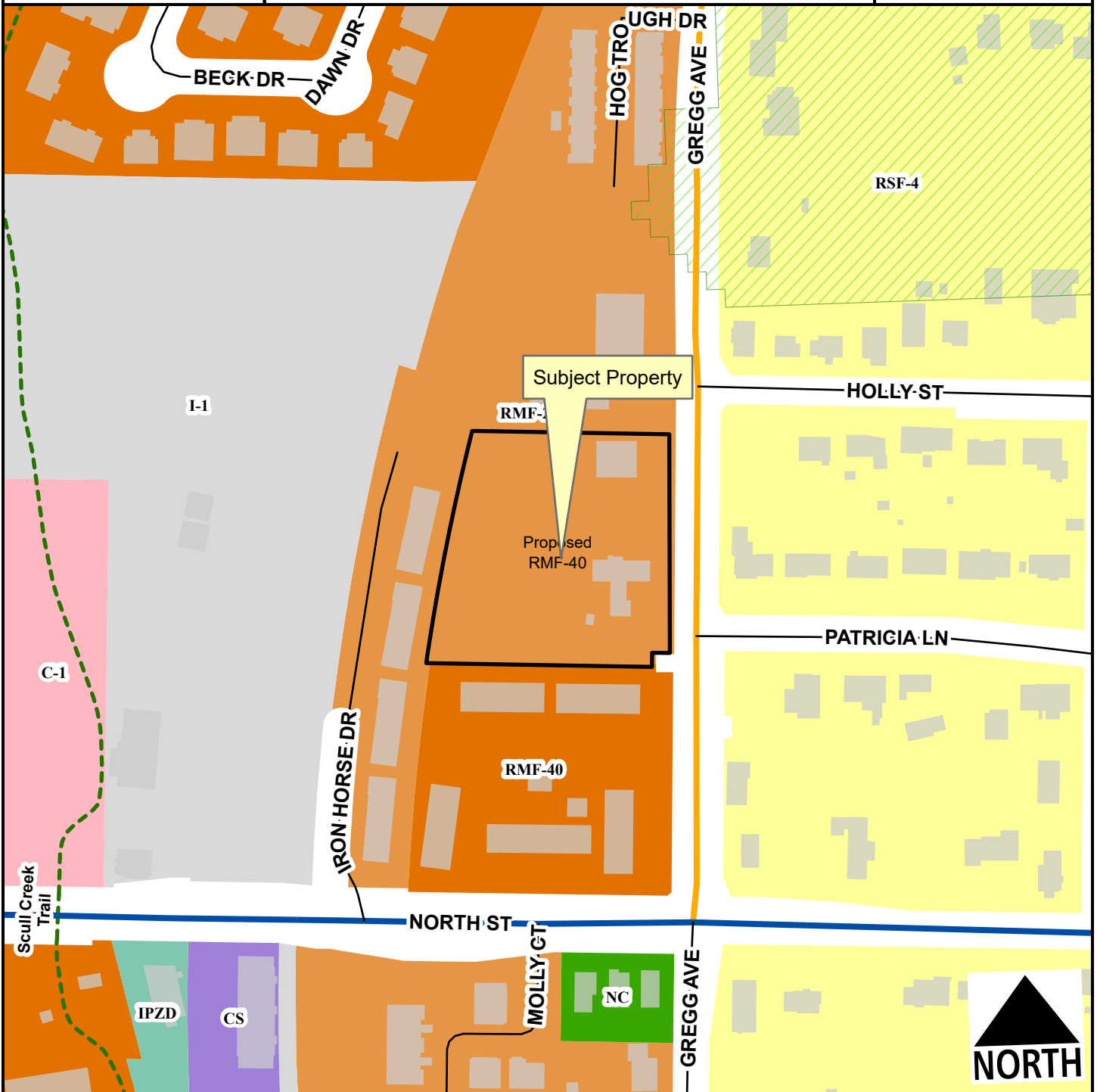
Hello,

I live on Elm Street about a mile northeast of the proposed rezone for Pathway Baptist Church to RMF-40.

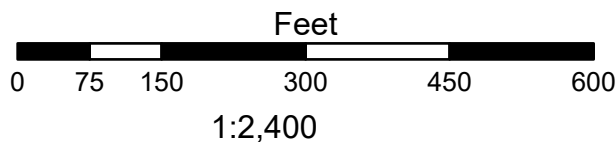
I support more density along the Gregg Avenue corridor in this location.

Thank you.





- Neighborhood Link
- Regional Link - High Activity
- Unclassified
- Residential Link
- Hillside-Hilltop Overlay District
- Planning Area
- Fayetteville City Limits



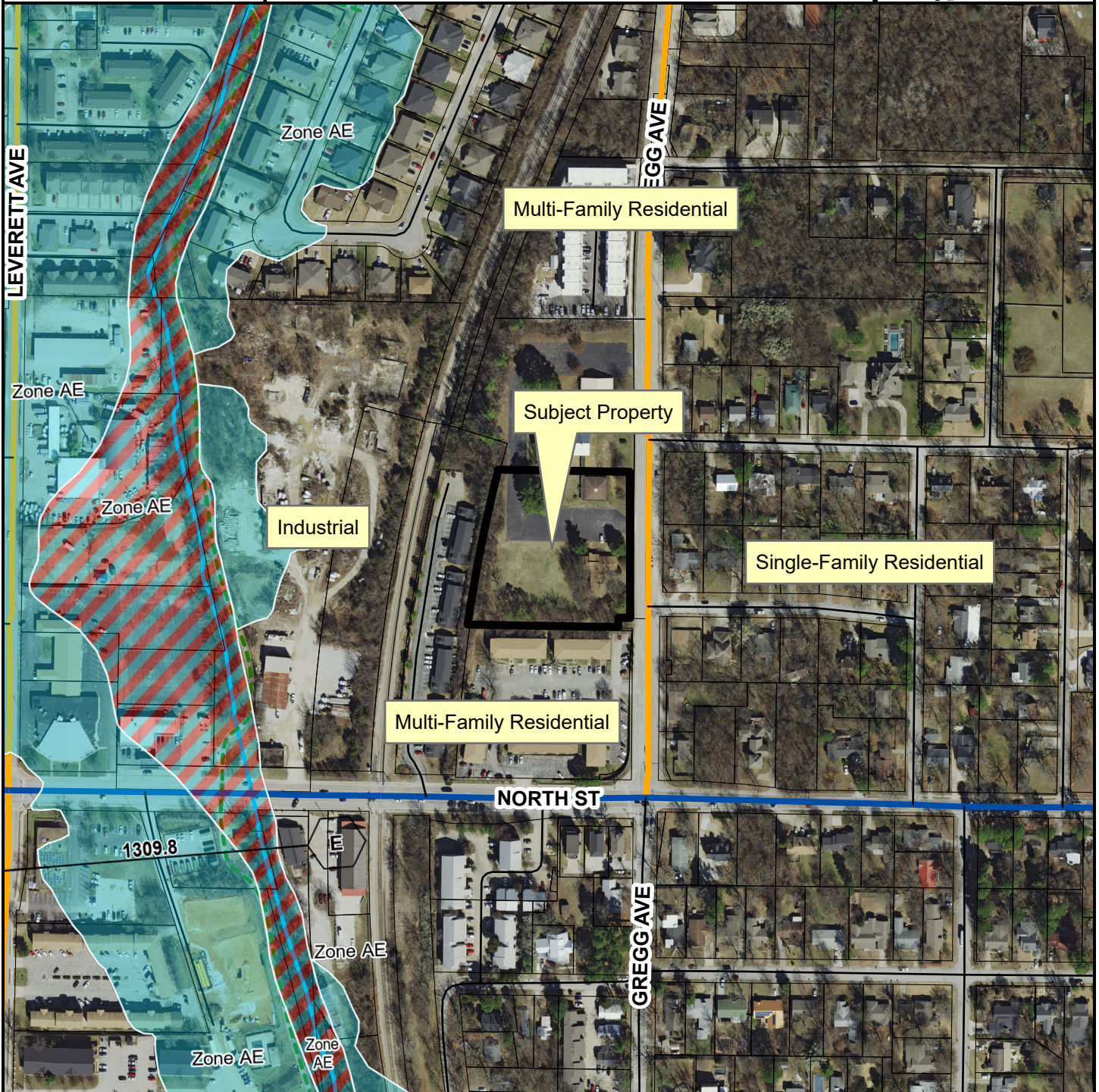
Zone	Current	Proposed
RMF-24	2.2	0.0
RMF-40	0.0	2.2

Total 2.2 ac

RZN-2023-0003

1275 N. GREGG AVE

Current Land Use

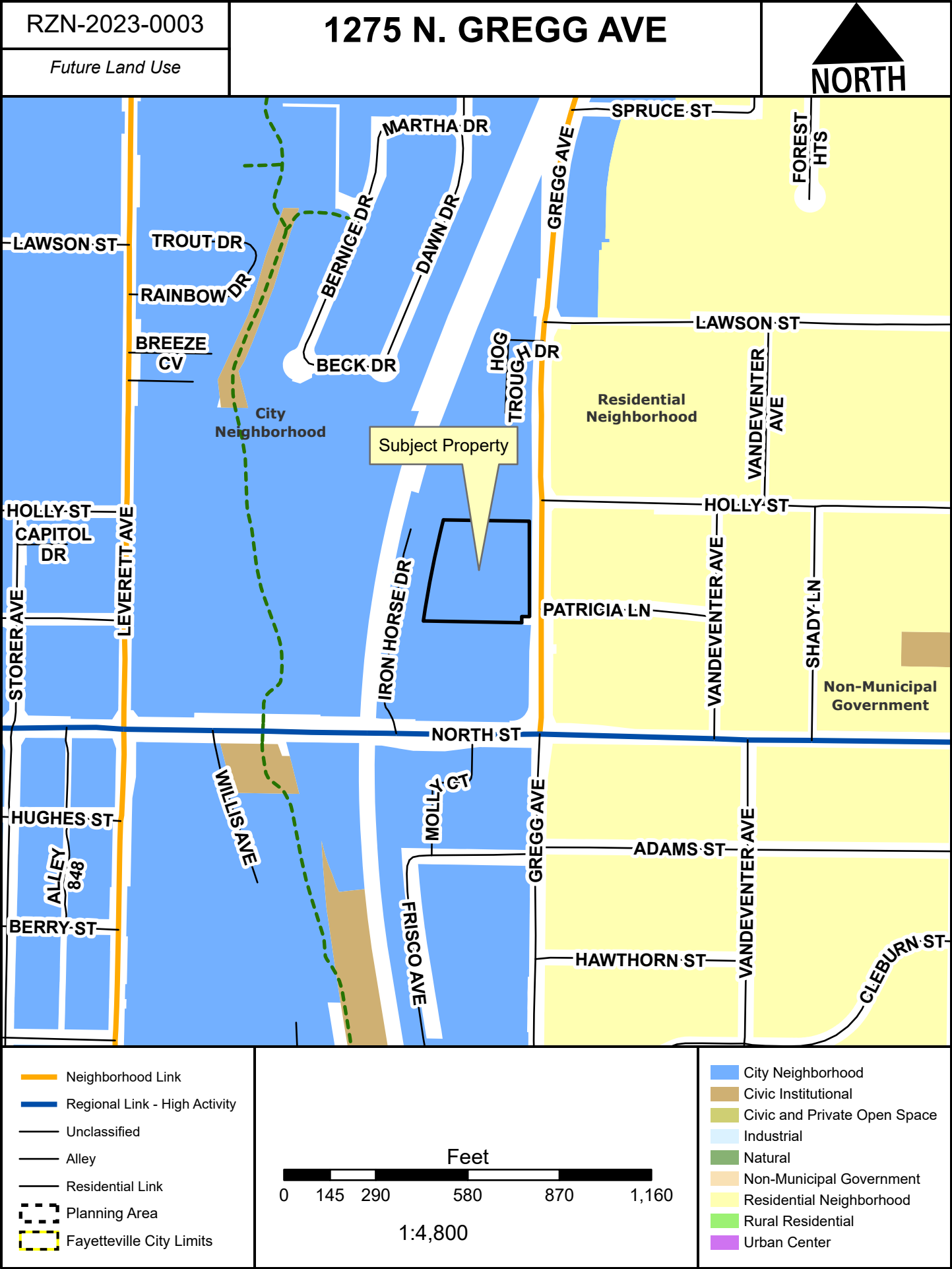


- Neighborhood Link
- Regional Link - High Activity
- Unclassified
- Residential Link
- Planning Area
- Fayetteville City Limits



FEMA Flood Hazard Data

- 100-Year Floodplain
- Floodway





MEETING OF MARCH 21, 2023

TO: Mayor Jordan and City Council

THRU: Susan Norton, Chief of Staff
Jonathan Curth, Development Services Director
Jessica Masters, Development Review Manager

FROM: Donna Wonsower, Planner

DATE:

SUBJECT: **RZN-2023-0004: Rezoning (2910 N. OLD WIRE RD. / VAN SCYOC, 255): Submitted by JORGENSEN AND ASSOCIATES for property located at 2910 N Old Wire Rd in WARD 3 . The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and R-A, RESIDENTIAL AGRICULTURE, contains approximately 14.70 acres. The request is to rezone the property to R-A, RESIDENTIAL AGRICULTURE on 5.75 acres and NC, NEIGHBORHOOD CONSERVATION on 9.54 acres.**

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 located in east Fayetteville, roughly 700 feet west of the intersection of N Crossover Rd. and N Old Wire Rd. The property's zoning is currently split between RSF-4, Residential Single-Family, Four (4) Units per Acre on the western half and R-A, Residential Agriculture on the eastern half. Except for a one single family house, the three parcels (cumulatively 14.7 acres) are undeveloped. The entire property is covered with extensive tree canopy. The eastern half is part of the streamside protection zone / floodplain & floodway of Niokaska Creek and is largely designated as part of the Enduring Green Network.

Request: The request is to shift the alignment of the existing R-A, Residential Agriculture zoning district to follow the boundary of the 100-year flood line, and to rezone the remainder of the property to NC, Neighborhood Conservation.

Public Comment: Five (5) members of the public offered comments in opposition of the item via email. Among their concerns were the potential increase in traffic, environmental concerns, negative impact on home values and neighborhood character, and lacking existing infrastructure including schools. One (1) member of the public emailed in support of the project. Additional members of the public spoke in person at the meeting, a summary of which is included below.

Land Use Compatibility: Staff finds the request to be compatible with the surrounding context. Residential uses and densities located near the subject property vary substantially. Neighboring properties are of a variety of sizes but generally follow a cul-de-sac development pattern. The existing and proposed zoning districts have

Mailing address:

113 W. Mountain Street
Fayetteville, AR 72701

www.fayetteville-ar.gov

similar allowable uses, but the NC includes urban form setbacks rather than traditional setbacks. When compared to RSF-4, rezoning to NC will decrease the lot area minimum for single and two-family uses from 8,000 and 12,000 square feet respectively to 4,000 sf. In addition, NC would have a build-to zone of 25 feet rather than a front setback of 15 feet, and a rear setback of 5 feet rather than 15 feet. NC requires a 40-foot lot width minimum while RSF-4 requires a 70-foot lot width minimum for single-family dwellings and an 80-foot lot width minimum for two-family dwellings. Conversely, both NC and RSF-4 include up to a three-story height limit.

Since the subject property contains roughly 8.14 acres of RSF-4, a maximum of thirty-two (32) units are permitted under current entitlements, where the proposed rezoning to 9.54 acres of NC would increase the density cap to ninety-five (95) units. That said, any future development would be subject to, and limited by, minimum parking requirements, tree preservation, drainage, and access management standards.

Land Use Plan Analysis: Staff finds the proposal is consistent with the goals in City Plan 2040 and the future land use designation for this location. Rezoning from RSF-4 to NC serves to contribute towards City Plan 2040 Goal #1– Appropriate Infill; #4– Growing a Livable Transportation Network, #5– We Will Assemble an Enduring Green Network, and #6– Create Opportunities for Attainable Housing. The site scores moderately on the Infill Scoring Matrix due to water/sewer access, public parks and trails, and the proximity of fire station #5. The RSF-4 and NC have similar allowed uses. However, because of the flexible zoning regulations associated with the NC district, rezoning may allow for redevelopment or added density while maintaining more tree canopy and natural areas than would be possible under the more Euclidean RSF-4 zoning district.

CITY PLAN 2040 INFILL MATRIX: City Plan 2040's Infill Matrix indicates 5 attributes for this site that may contribute to appropriate infill. The following elements of the matrix contribute to the score:

- Adequate Fire Response (Station #5, 2979 N Old Wire Rd.)
- Near Sewer Main (8" sewer main, N Old Wire Rd.)
- Near Water Main (6" water main, N Old Wire Rd.)
- Near City Park (Gulley Park)
- Near Paved Trail (Niokaska Creek Trail)

DISCUSSION:

At the February 27, 2023 Planning Commission meeting, a vote of 5-2-1 forwarded the request to City Council with a recommendation of approval. Commissioner Brink made the motion and Commissioner McGetrick seconded. Commissioner Holcomb recused himself for this item. Commissioners in favor of the rezoning found the intent of Neighborhood Conservation to be compatible with RSF-4, allowing for more flexible, walkable development. They also noted that although the property is not directly located in an urban growth center on the 2040 plan's growth concept map (designated on a scale of 1-3 depending on intensity), it is between a tier 2 and a tier 3 center on a high-activity corridor. Per the plan, the tier centers identify key growth nodes and major areas that should be conserved for natural resources and open space (City Plan 2040, pg. 12). The commissioners voting in favor of the rezoning also cited the logical re-alignment of the R-A zoning with the floodplain. Commissioners Garlock and Madden voted no citing a low infill score, limited possibility for connectivity to surrounding properties, and the property not falling within the bounds of the tier 2 center, and misalignment with the future land use map and master street plan regional link.

Seven (7) members of the public spoke during the meeting. Discussion from the public focused primarily on compatibility with the existing neighborhood, drainage and flooding, density, increased traffic, environmental impact, insufficient schools, and the public hearing process.

Mailing address:

113 W. Mountain Street
Fayetteville, AR 72701

www.fayetteville-ar.gov

BUDGET/STAFF IMPACT:

NA

ATTACHMENTS: SRF, Exhibit A, Exhibit B, Planning Commission Staff Report



City of Fayetteville, Arkansas

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

Legislation Text

File #: 2023-502

RZN-2023-0004: Rezoning (2910 N. OLD WIRE RD. / VAN SCYOC, 255): Submitted by JORGENSEN AND ASSOCIATES for property located at 2910 N Old Wire Rd in WARD 3 . The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and R-A, RESIDENTIAL AGRICULTURE, contains approximately 14.70 acres. The request is to rezone the property to R-A, RESIDENTIAL AGRICULTURE on 5.75 acres and NC, NEIGHBORHOOD CONSERVATION on 9.54 acres.

AN ORDINANCE TO REZONE THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 23-004 LOCATED AT 2910 NORTH OLD WIRE ROAD IN WARD 3 FOR APPROXIMATELY 14.70 ACRES FROM RSF-4, RESIDENTIAL SINGLE-FAMILY, 4 UNITS PER ACRE AND R-A, RESIDENTIAL AGRICULTURE TO R-A, RESIDENTIAL AGRICULTURE AND NC, NEIGHBORHOOD CONSERVATION

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 RSF-4, Residential Single-Family, 4 Units Per Acre and R-A, Residential Agriculture to R-A, Residential Agriculture and NC, Neighborhood Conservation.

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

2023-502

Item ID

3/21/2023

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

Jonathan Curth

2/27/2023

DEVELOPMENT REVIEW (630)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

RZN-2023-0004: Rezoning (2910 N. OLD WIRE RD. / VAN SCYOC, 255): Submitted by JORGENSEN AND ASSOCIATES for property located at 2910 N Old Wire Rd in WARD 3 . The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and R-A, RESIDENTIAL AGRICULTURE, contains approximately 14.70 acres. The request is to rezone the property to R-A, RESIDENTIAL AGRICULTURE on 5.75 acres and NC, NEIGHBORHOOD CONSERVATION on 9.54 acres.

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:

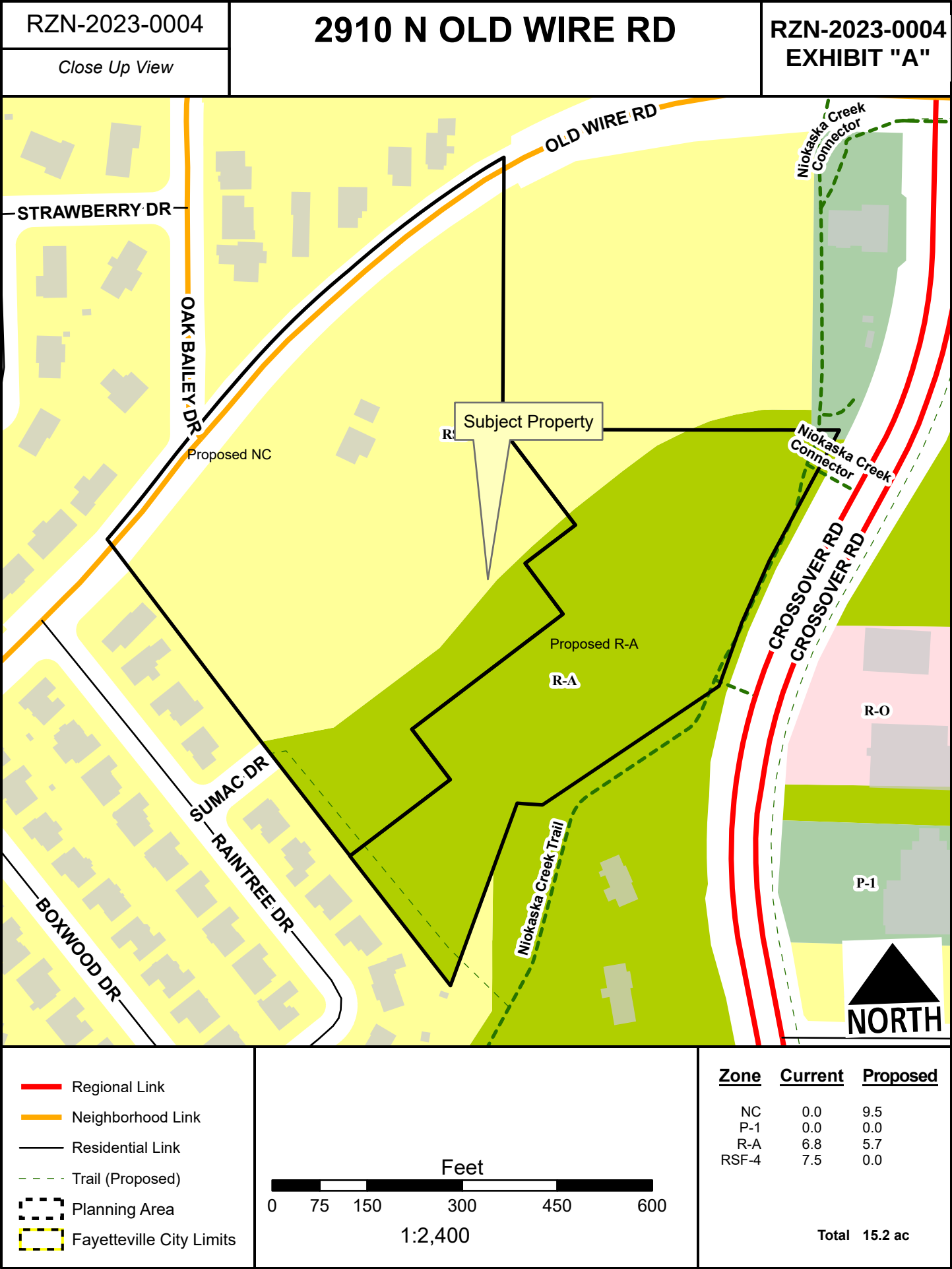
Previous Ordinance or Resolution #

Change Order Number:

Approval Date:

Original Contract Number:

Comments:



PROPOSED NC:

A PART OF THE FRACTIONAL SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 31, TOWNSHIP 17 NORTH, RANGE 29 WEST, A PART OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER AND A PART OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER, BOTH BEING IN SECTION 36, TOWNSHIP 17 NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF THE SAID FRACTIONAL SOUTHWEST QUARTER OF THE NORTHWEST QUARTER, AND RUNNING S02°14'17"W 97.12 FEET TO THE TRUE POINT OF BEGINNING, SAID POINT ALSO BEING LOCATED ON THE SOUTHERN RIGHT OF WAY OF NORTH OLD WIRE ROAD, AND RUNNING THENCE S02°15'49"W 429.56 FEET; THENCE S87°52'31"E 123.32 FEET; THENCE S08°33'31"W 53.99 FEET; THENCE S05°31'45"W 57.41 FEET; THENCE S24°32'37"W 24.30 FEET; THENCE S24°54'10"W 53.06 FEET; THENCE S32°19'52"W 81.60 FEET; THENCE S22°31'13"W 31.24 FEET; THENCE S30°56'30"W 55.84 FEET; THENCE S67°02'26"W 19.68 FEET; THENCE S46°06'51"W 27.99 FEET; THENCE S33°54'04"W 31.67 FEET; THENCE S24°14'51"W 66.12 FEET; THENCE S50°36'17"W 30.08 FEET; THENCE S22°18'47"W 24.79 FEET; THENCE S08°12'04"W 45.76 FEET; THENCE S26°45'39"W 32.36 FEET; THENCE S51°35'25"W 9.85 FEET; THENCE S51°35'41"W 8.83 FEET; THENCE S24°30'55"W 20.93 FEET; THENCE S03°58'37"W 40.38 FEET; THENCE S19°01'59"W 20.25 FEET; THENCE S14°09'59"W 60.86 FEET; THENCE S09°28'53"W 18.99 FEET; THENCE S35°51'49"W 15.43 FEET; THENCE S50°39'06"W 4.53 FEET; THENCE N35°50'03"W 327.54 FEET; THENCE N35°16'57"W 400.46 FEET TO THE SOUTHERN RIGHT OF WAY OF NORTH OLD WIRE ROAD, AND RUNNING ALONG SAID RIGHT OF WAY THE FOLLOWING 5 COURSES: ALONG A CURVE TURNING TO THE LEFT, HAVING A RADIUS OF 2397.52 FEET, AND WHOSE LONG CHORD BEARS N40°57'49"E 147.18 FEET; ALONG A CURVE TURNING TO THE RIGHT, HAVING A RADIUS OF 3286.14 FEET, AND WHOSE LONG CHORD BEARS N41°51'51"E 218.96 FEET; ALONG A CURVE TURNING TO THE RIGHT, HAVING A RADIUS OF 1347.97 FEET, AND WHOSE LONG CHORD BEARS N48°18'14"E 205.46 FEET; ALONG A CURVE TURNING TO THE RIGHT, HAVING A RADIUS OF 1689.10 FEET, AND WHOSE LONG CHORD BEARS N55°03'18"E 261.36 FEET; ALONG A CURVE TURNING TO THE RIGHT, HAVING A RADIUS OF 573.12 FEET, AND WHOSE LONG CHORD BEARS N61°16'48"E 42.19 FEET TO THE POINT OF BEGINNING, CONTAINING IN ALL 9.785 ACRES, MORE OR LESS.

PROPOSED R-A:

A PART OF THE FRACTIONAL SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 31, TOWNSHIP 17 NORTH, RANGE 29 WEST, A PART OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER AND A PART OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER, BOTH BEING IN SECTION 36, TOWNSHIP 17 NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF THE SAID FRACTIONAL SOUTHWEST QUARTER OF THE NORTHWEST QUARTER, AND RUNNING S02°14'17"W 97.12 FEET; S02°15'49"W 429.56 FEET; and S87°52'31"E 123.32 FEET TO THE TRUE POINT OF BEGINNING, and running THENCE S87°52'31"E 408.20 FEET TO THE WESTERN RIGHT OF WAY OF NORTH CROSSOVER ROAD, AND RUNNING ALONG SAID RIGHT OF WAY THE FOLLOWING 3 COURSES: S30°12'22"W 234.20 FEET; S25°57'22"W 107.26 FEET; S21°46'26"W 105.67 FEET; THENCE LEAVING SAID RIGHT OF WAY S58°02'23"W 336.11 FEET; THENCE N84°10'57"W 40.00 FEET; THENCE S22°05'53"W 306.47 FEET; THENCE N35°50'03"W 160.87 FEET; THENCE N50°39'06"E 4.53 FEET; THENCE N35°51'49"E 15.43 FEET; THENCE N09°28'53"E 18.99 FEET; THENCE N14°09'59"E 60.86 FEET; THENCE N19°01'59"E 20.25 FEET; THENCE N03°58'37"E 40.38 FEET; THENCE N24°30'55"E 20.93 FEET; THENCE N51°35'41"E 8.83 FEET; THENCE N51°35'25"E 9.85 FEET; THENCE N26°45'39"E 32.36 FEET; THENCE N08°12'04"E 45.76 FEET; THENCE N22°18'47"E 24.79 FEET; THENCE N50°36'17"E 30.08 FEET; THENCE N24°14'51"E 66.12 FEET; THENCE N33°54'04"E 31.67 FEET; THENCE N46°06'51"E 27.99 FEET; THENCE N67°02'26"E 19.68 FEET; THENCE N30°56'30"E 55.84 FEET; THENCE N22°31'13"E 31.24 FEET; THENCE N32°19'52"E 81.60 FEET; THENCE N24°54'10"E 53.06 FEET; THENCE N24°32'37"E 24.30 FEET; THENCE N05°31'45"E 57.41 FEET; THENCE N08°33'31"E 53.99 FEET TO THE POINT OF BEGINNING, CONTAINING IN ALL 5.497 ACRES, MORE OR LESS. SUBJECT TO EASEMENTS AND RIGHTS OF WAY OF RECORD.



TO: Fayetteville Planning Commission

THRU: Jessie Masters, Development Review Manager

FROM: Donna Wonsower, Planner

MEETING DATE: February 27, 2023 **(Updated with results from Planning Commission)**

SUBJECT: **RZN-2023-0004: Rezoning (2910 N. OLD WIRE RD. / VAN SCYOC, 255):**
Submitted by JORGENSEN AND ASSOCIATES for property located at 2910 N Old Wire Rd. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY, FOUR UNITS PER ACRE and R-A, RESIDENTIAL AGRICULTURAL, contains approximately 14.70 acres. The request is to rezone the property to R-A, RESIDENTIAL AGRICULTURAL on 5.75 acres and NC, NEIGHBORHOOD CONSERVATION on 9.54 acres.

RECOMMENDATION:

Staff recommends forwarding **RZN-2023-0004** to City Council with a recommendation of approval.

RECOMMENDED MOTION:

"I move to forward **RZN-2023-0004** to City Council with a recommendation of approval."

BACKGROUND:

The subject property is in east Fayetteville, roughly 700 feet west of the intersection of N. Crossover Rd. and N. Old Wire Rd. The property's zoning is currently split roughly half between RSF-4, Residential Single-Family, Four (4) Units per Acre on the western half and R-A, Residential Agricultural over the eastern half. Except for a single-single family house, the three parcels (cumulatively 14.7 acres) are undeveloped. The entire property is covered extensively with tree canopy and the eastern half is part of the streamside protection zone / floodplain & floodway of Niokaska Creek. Most of the land currently zoned R-A is designated as part of the Enduring Green Network.

Surrounding land uses and zoning is depicted in *Table 1*.

Table 1
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Single-Family Residential	RSF-4, Residential Single-Family, 4 Units per Acre
South	Streamside / Single-Family Residential	RSF-4, Residential Single-Family, 4 Units per Acre / R-A, Residential Agricultural
East	Single-Family Residential	RSF-4, Residential Single-Family, 4 Units per Acre
West	Single-Family Residential	RSF-4, Residential Single-Family, 4 Units per Acre

Request: The request is to shift the alignment of the existing R-A, Residential Agricultural zoning district to follow the boundary of the 100-year flood line, and to rezone the remainder of the property to NC, Neighborhood Conservation.

Public Comment: Two members of the public offered comment in opposition of the item. Among their concerns was the potential increase in traffic, environmental concerns, negative impact to home values and neighborhood character, and lacking existing infrastructure including schools.

INFRASTRUCTURE AND ENVIRONMENTAL REVIEW

Streets: The subject area has frontage along N. Old Wire Rd., a partially improved Neighborhood Link street with asphalt paving, and open ditches. The subject area also has frontage along N. Sumac Dr., a fully improved residential link street with asphalt paving, sidewalk, gutter and curb. 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. Existing 8-inch water main is present on the south side of N. Old Wire Rd. Existing 6-inch water main is present on the north side of N. Sumac Dr.

Sewer: Sanitary Sewer is available to the Subject area. Existing 6-inch sewer main is present on the North side of N. Old Wire Rd.

Fire: Station 5, located at 2979 N. Crossover Rd., protects this site. The property is located approximately 0.5 miles from the fire station with an anticipated drive time of approximately 1 minute using existing streets. The anticipated response time would be approximately 3.2 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.

Police: The Police Department expressed no concerns with this request.

Drainage: No portion of the property lies within the Hillside-Hilltop Overlay District.

A portion of the property is designated as having hydric soils, a known indicator of wetlands. However, for an area to be classified as wetlands, it may also need other characteristics such as hydrophytes (plants that grow in water), and shallow water during parts of the year. Hydric Soils can be found across many areas of Fayetteville, including valleys, floodplains, and open prairies. It's important to identify these natural resources during development, so when these soils are identified on a property, further environmental studies will be required at the time of development. Before permits will be issued for the property a statement/report from an environmental professional must be provided summarizing the existence of wetlands on the property. If this statement/report indicates that wetlands may be present on site, a USACE Determination of Jurisdictional Wetlands will be required at the time of development submittal.

A portion of the property lies within a FEMA floodplain. A floodplain development

review will be required at the time of permit or plan submittal. This will restrict the type of development and impact in flood zones; and may require additional documentation such as flood studies or elevation certificates depending on the type of development. If a development impacts a floodplain, those impacts may require review and approval from FEMA.

A portion of the property lies within a streamside protection zone. Streamside Protection Zones generally consists of a protected area on each side of a stream or creek. This “protected area” is meant to preserve woody vegetation and natural areas along stream corridors to improve/protect stream health. At a minimum, it will be 50ft wide as measured from the top of bank but depending on the shape and extents of the floodway, it could be substantially more. Certain construction activities such as trails and some utilities are allowed in these zones, but in general, improvements such as parking lots or buildings are prohibited.

Tree Preservation:

The proposed zoning district of NC, Neighborhood Conservation requires **20% minimum canopy preservation**. The zoning district of RA, Residential Agricultural, intended to be re-aligned but not removed, requires **25% minimum canopy preservation**. The current 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 a **Residential Neighborhood** and **Natural Area**.

Residential Neighborhood Areas are primarily residential in nature and support a wide variety of housing types of appropriate scale and context: single-family, duplexes, rowhouses, multifamily and accessory dwelling units. 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, such as retail and offices, on corners and along connecting corridors. This designation recognizes existing conventional subdivision developments which may have large blocks with conventional setbacks and development patterns that respond to features of the natural environment. Building setbacks may vary depending on the context of the existing neighborhood.

Natural Areas consist of lands approximating or reverting to a wilderness conditions, including those with limited development potential due to topography, hydrology, vegetation or value as an environmental resource. These resources can include stream and wildlife corridors, as well as natural hubs and cores, many of which are identified in the generalized enduring green network. A Natural Area designation would encourage a development pattern that requires conservation and preservation, prevents degradation of these areas, and would utilize the principles of low impact development stormwater infrastructure for all developments. Natural Areas are prime candidates for conservation subdivision design and/or clustered development patterns.

CITY PLAN 2040 INFILL MATRIX: City Plan 2040’s Infill Matrix indicates a score of **6** for this site, with a weighted score of **6** at the highest. The following elements of the matrix contribute to the score:

- Adequate Fire Response (Station #5, 2979 N Old Wire Rd.)
- Near Sewer Main (8” sewer main, N Old Wire Rd.)
- Near Water Main (6” water main, N Old Wire Rd.)

- Near City Park (Gulley Park)
- Near Paved Trail (Niokaska Creek Trail)

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 request to be compatible with the surrounding context. Residential uses and densities located near the subject property vary substantially. Neighboring properties are of a variety of sizes but generally follow a cul-de-sac development pattern. The existing and proposed zoning districts have similar allowable uses, the NC includes urban form setbacks rather than traditional setbacks. When compared to RSF-4, rezoning to NC will decrease the buildable area of the lot for single and two-family uses from 8,000 and 12,000 square feet respectively to 4,000 square feet. In addition, NC would have a build-to zone of 25 feet rather than a front setback of 15 feet, and a rear setback of 12 feet rather than 15 feet. Since the subject property contains roughly 8.14 acres of RSF-4, a maximum of thirty-two (32) units are permitted under current entitlements, where the proposed rezoning to 9.54 acres of NC would increase the density cap to ninety-five (95) units. That said, any future development would be subject to, and limited by, minimum parking requirements, tree preservation, drainage, and access management standards. NC requires a 40-foot lot width minimum while RSF-4 requires a 70-foot lot width minimum for single-family dwellings and 80-ft lot width minimum for two-family dwellings. Conversely, both NC and RSF-4 include up to a three-story height limit.

Land Use Plan Analysis: Staff finds the proposal is consistent with the goals in City Plan 2040 and the future land use designation for this location. Rezoning from RSF-4 to NC serves to contribute towards City Plan 2040 Goals #1 – Appropriate Infill, Growing a Livable Transportation Network, #5 - We Will Assemble an Enduring Green Network, and #6 – Create Opportunities for Attainable Housing. The site scores moderately on the Infill Scoring Matrix due to water/sewer access, public parks and trails, and the proximity of fire station #5. The RSF-4 and NC have similar allowed uses; however because of the form-based zoning regulations associated with the NC district, rezoning may allow for redevelopment or added density while maintaining more tree canopy and natural areas than would be possible under the RSF-4 zoning district.

The Future Land Use Map designates the site as split between Residential Neighborhood Area, which supports “a wide variety of housing types of appropriate scale and context including single-family, duplexes, rowhouses, multifamily and accessory dwelling units,” and Natural Area, which “promotes conservation of open space and areas of significant riparian benefit.” Staff is supportive of realigning the R-A zoning district to the 100-year flood boundary, as the change would more accurately reflect the intent of the future land use plan to preserve the riparian area adjacent to Niokaska Creek. Further, adding density as designated by the “Residential Neighborhood” designation is likely best facilitated by the regulations in NC

zoning and is justified given the property's proximity to commercial and non-residential uses in north Fayetteville.

2. A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed.

Finding: Staff finds that a rezoning to NC is justified. Rezoning may be less restrictive in allowing the property to develop under proportional regulations. Because rezoning will better support infill redevelopment on the property, staff finds the proposed zoning to be consistent with the City's future land use goals and therefore needed at this time.

3. A determination as to whether the proposed zoning would create or appreciably increase traffic danger and congestion.

Finding: Rezoning to NC has an associated potential to increase traffic at this location. NC permits development at 10 units per acre where it is currently limited to 4 units per acre. Staff finds potential to increase the number of residential units above what is currently allowed by right; subject to constraints such as steep slopes, tree preservation requirements, and other design requirements. Staff finds the increase in density is unlikely to result in increased traffic danger or congestion. The subject property has access to N. Old Wire Rd., an improved Neighborhood Link. Future development would be required to meet the City's applicable access management and parking standards.

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: Rezoning the property to NC may increase the load on public services, but the impact is not expected to be detrimental. The size of the property and access to existing water and sewer infrastructure means future development will likely avoid the need for costly extensions to services. 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 recommends forwarding RZN-2023-0004 to City Council with a recommendation of approval.

PLANNING COMMISSION ACTION: Required <u>YES</u>			
Date: <u>February 27, 2023</u>	☐ Tabled	☒ Forwarded	☐ Denied
Motion: Brink	Forwarded with a recommendation of approval Seven (7) Public comment in person, Six (6) Digital comments		
Second: McGetrick			
Vote: 5-2-1 (Garlock & Madden voted No, Holcomb Recused)			

BUDGET/STAFF IMPACT:

None

Attachments:

- Unified Development Code:
 - §161.03 District R-A, Residential Agricultural
 - §161.07 District RSF-4, Residential Single-Family, Four Units per Acre
 - §161.29 District NC, Neighborhood Conservation
- Applicant Request Letter
- Public Comment
- One Mile 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.

(Code 1965, App. A., Art. 5(1); Ord. No. 1747, 6-29-70; Code 1991, §160.030; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. No. 5028, 6-19-07; Ord. No. 5128, 4-15-08; Ord. No. 5195, 11-6-08; Ord. No. 5238, 5-5-09; Ord. No. 5479, 2-7-12; Ord. No. 5945, §3, 1-17-17; Ord. No. 6015, §1(Exh. A), 11-21-17; Ord. No. 6427, §§1(Exh. C), 2, 4-20-21)

Ord. No. 6427, § 2, adopted April 20, 2021, "determines that this ordinance and all amendments to Code sections ordained or enacted by this ordinance shall automatically sunset, be repealed, terminated, and become void twenty (20) months after the passage and approval of this ordinance, unless prior to that date, the City Council amends this ordinance to repeal this sunset, repeal and termination section."

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.

(Code 1991, §160.031; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. No. 4858, 4-18-06; Ord. No. 5028, 6-19-07; Ord. No. 5128, 4-15-08; Ord. No. 5224, 3-3-09; Ord. No. 5312, 4-20-10; Ord. No. 5462, 12-6-11; Ord. No. 5921, §1, 11-1-16; Ord. No. 5945, §8, 1-17-17; Ord. No. 6015, §1(Exh. A), 11-21-17; Ord. No. 6245, §2, 10-15-19; Ord. No. 6427, §§1(Exh. C), 2, 4-20-21)

Ord. No. 6427, § 2, adopted April 20, 2021, "determines that this ordinance and all amendments to Code sections ordained or enacted by this ordinance shall automatically sunset, be repealed, terminated, and become void twenty (20) months after the passage and approval of this ordinance, unless prior to that date, the City Council amends this ordinance to repeal this sunset, repeal and termination section."

161.29 Neighborhood Conservation

(A) *Purpose.* The Neighborhood Conservation zone has the least activity and a lower density than the other zones. Although Neighborhood Conservation is the most purely residential zone, it can have some mix of uses, such as civic buildings. Neighborhood Conservation serves to promote and protect neighborhood character. For the purposes of Chapter 96: Noise Control, the Neighborhood Conservation district is a residential zone.

(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 9	Two (2) family dwellings
Unit 10	Three (3) and four (4) family dwellings
Unit 12a	Limited business*
Unit 24	Home occupations
Unit 25	Offices, studios, and related services
Unit 28	Center for collecting recyclable materials
Unit 36	Wireless communication facilities
Unit 44	Cluster Housing Development

(C) *Density.* Ten (10) Units Per Acre.

(D) *Bulk and Area Regulations.*

(1) *Lot Width Minimum.*

All dwelling types	40 feet
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(2) *Lot Area Minimum.* 4,000 square feet

(E) *Setback Regulations.*

Front	A build-to zone that is located between the front property line and a line 25 feet from the front property line.
Side	5 feet
Rear	5 feet
Rear, from center line of an alley	12 feet

(F) *Building Height Regulations.*

Building Height Maximum	3 stories
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(Ord. No. 5128, 4-15-08; Ord. No. 5312, 4-20-10; Ord. No. 5462, 12-6-11; Ord. No. 5592, 6-18-13; Ord. No. 5664, 2-18-14; Ord. No. 5800 , §1(Exh. A), 10-6-15>; Ord. No. 5921 , §1, 11-1-16; Ord. No. 5945 , §§5, 7—9, 1-17-17; Ord. No. 6015 , §1(Exh. A), 11-21-17; Ord. No. 6211 , §1, 8-6-19; Ord. No. 6427 , §§1(Exh. C), 2, 4-20-21)

Ord. No. 6427 , § 2, adopted April 20, 2021, "determines that this ordinance and all amendments to Code sections ordained or enacted by this ordinance shall automatically sunset, be repealed, terminated, and become void twenty (20) months after the passage and approval of this ordinance, unless prior to that date, the City Council amends this ordinance to repeal this sunset, repeal and termination section."

February 3, 2023

City of Fayetteville
Development Services
113 West Mountain Street
Fayetteville, AR 72701

Re: Rezoning at 2910 N Old Wire Road

Dear City Staff;

On Behalf of the Owner and their representatives, we are submitting a rezoning request for property located along 2910 N Old Wire, Fayetteville, AR 72703.

- A. The current owner of this site is as follows: Nola VanScyoc Revocable Trust (Parcel Numbers 765-16047-000, 765-13287-000. 765-16043-000.
- B. Currently this property is zoned RSF-4 and R-A.
- C. This property is surrounded by RSF-4 on the north and west, a portion of P-1 to the south and north, and section of R-O to the east.
- D. Existing adequate water and sewer are already at this site.
- E. We feel the requested rezoning is in line with the goals of the City Plan 2040 where the future land use calls for a portion of Residential Neighborhood and Natural.

Statement of Compatibility:

This request to rezone a portion of the RSF-4 to Neighborhood Conservation and adjust the R-A zoning line to match the 100-year floodplain is compatible with neighboring property and will not unreasonably adversely affect or conflict with surrounding land uses. Within reasonable proximity, rezoning of the property south of Butterfield Elementary to NC, sets a precedence for similar development patterns that serve to promote and protect neighborhood character. The zoning line has been adjusted to follow the 100-year flood plain and this zoning line makes more sense than the current zoning line and will ensure that the floodplain would be of minimal impact. Given the proximity to the Fire Station, Crossover (Regional Link), and the Niokaska Trail, we feel that this rezoning is supported in a multitude of ways and will not adversely impact vehicular patterns.

Wonsower, Donna

From: Julie C Keys <jckey611@gmail.com>
Sent: Saturday, February 25, 2023 9:39 PM
To: Wonsower, Donna
Subject: Old Wire Rezoning

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.

Dear City Planner Wonsower:

This concern addresses the rezoning of 2910 North Old Wire Road. I firmly believe that it is not in the best interest of its neighbors, commuters, or city of Fayetteville.

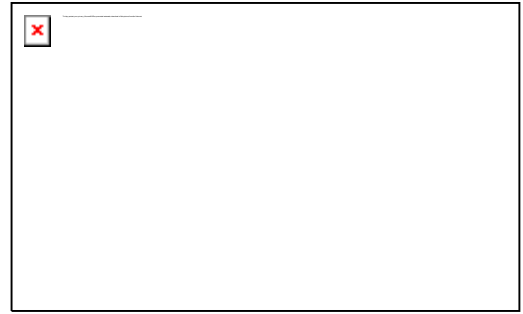
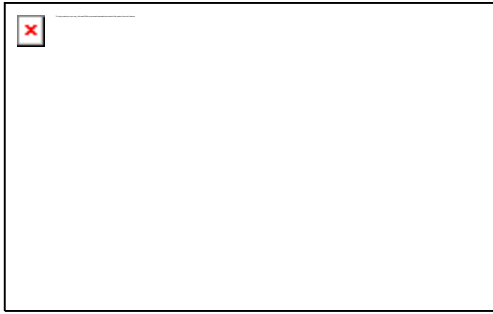
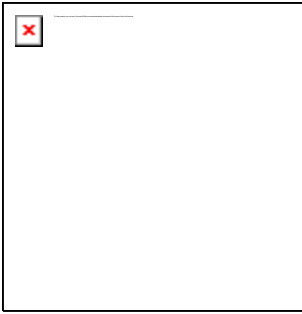
First, I wish to address this issue on a personal note. In 2006, my husband and I began our search for a home in Fayetteville to raise our one year old and immediately fell in love with the property on Raintree Drive in the Boxwood subdivision. At the time, I worried that our proximity to the fire station was too close, potentially a noise nuisance, but I talked myself into that being a plus to the property. It was the green space behind our house that sold us! For the last 17 years, listening to the sounds and enjoying the sights of the wooded area have brought such peace.

I also want to address this issue as a citizen of Fayetteville. The projected area on Old Wire Road currently has only two lanes, leading to numerous neighborhoods and to commercial areas. There is no sidewalk, and traffic is often backed up at the intersection of Old Wire Road and Crossover Road. Additional dwellings will impact an already congested area of town. Many times when I try to leave my street, I face lines of traffic or speeding cars. From a traffic perspective, adding more dwellings to the area will negatively impact the area.

Most importantly though, I want to address the potential environmental concerns. One of the reasons I chose this area was the city's commitment to conserve green space and protect its natural beauty. Just four houses down from my house, homeowners are required to have flood insurance. Considering the city's recent restoration to Niokaska Creek, an area of the Illinois River Watershed, I worry about upsetting the landscape further. I am not a landscape engineer, but I do know that destroying the current tree canopy can lead to erosion. In addition, urban development influences drainage and contaminates water. These concerns do not seem to be in line with the City of Fayetteville's vision.

Thank you for your service to our fine city, and I ask that additional consideration be given to the proposed area. Below you will find images of the proposed rezoning from my home, as well as data from the [Fayetteville City Plan 2040](#).

In appreciation,
 Julie Keys
 2792 North Raintree Drive
jckey611@gmail.com
 479-957-1780



8.3 Tree Canopy

A healthy urban tree canopy can address the three major weather events that are anticipated to affect Northwest Arkansas: unpredictable but more impactful rain events, drought, and heat waves. Even before broad acknowledgement of climate change, Fayetteville and its residents placed a high value on the City's tree canopy, particularly with the formation of the Tree and Landscape Advisory Committee in 1993 and the subsequent adoption of a Tree Preservation ordinance regulating tree removal associated with development.

8.4 Slopes and Hillside

Slope is a critical factor in determining a soil's suitability for supporting development. The development of severe slopes involving soils not capable of provided sufficient foundational support may result in extensive cutting and filling to stabilize them. When compounded by the removal of existing vegetation, the excavation and fill of soil can result in severe erosion, slumping and shearing. In Fayetteville, areas of severe slope are characterized by soils less suitable for development. Shallow depth to bedrock conditions are compound problems in these areas. There are several identified beds of cherty limestone, acid sandstone, siltstone and shale that have shown faulting and folding at steeper locations.

Of the 58,037 acres of land within the City and its Planning Area, approximately 16%, or 8,900 acres have slopes of 15 percent or greater. With some notable exceptions such as Mount Sequoyah, these slopes have previously remained largely undeveloped. More recent trends indicate that development on hillsides and hilltops is increasing. The passage of the Hillside/Hilltop Development Overlay District in 2006 provided additional development protections on slopes that are 15 percent and greater and the flatter, bench-like hilltops.

8.5 Watershed System

However, urban development can, and has, altered many of these natural drainage systems which can create drainage, storage and flooding hazards during heavy or extended duration storm events.

8.6 Flooding

In general Chapter 168, flood damage prevention, of the Unified Development Code (UDC) and 44 Code of Federal Regulations (44CFR) are utilized in conjunction with the latest Flood Insurance Rate Maps (FIRM) to determine which properties may be at risk and in need of additional regulation to limit flood losses. These regulations extend to the area defined as "Special Flood Hazard Areas" located on the Flood Insurance Rate Maps.

Flooding also brings challenges associated with water quality. Rising flood waters can be contaminated by, among other things, oil and grease, household chemicals, fuels, sanitary sewer overflows, and soils/ sediment. One major contributor of soil/ sediment and the associated nutrients such as phosphorus is stream bank erosion. As flood waters rise, the velocity of the water increases and can damage stream banks causing both pollution issues and property loss. All of these items can damage the natural ecosystem and potentially harm drinking water sources. Beaver Lake is the drinking water source for all of Northwest Arkansas and approximately 40% of Fayetteville currently drains into this watershed. The remainder drains into the Illinois River Watershed which also has its challenges with regard to pollutants.

Wonsower, Donna

From: Rob Keys <2123keys@gmail.com>
Sent: Sunday, February 26, 2023 6:22 PM
To: Umberger, Ryan; Wonsower, Donna; Hopkins, Mirinda; Planning Shared
Subject: development off Old Wire Road

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.

Ryan/Donna/Miranda/others- Thank you, first of all, for serving Fayetteville. Being an official in the public eye is not easy these days and I appreciate your willingness to do so.

I'm contacting you re: Mitch Weigel's proposal to develop land between the Boxwood subdivision and the fire station at Old Wire/265. I'm sure you've heard from some of my Boxwood neighbors, as this is an emotional issue for some, if not many.

Having lived directly adjacent to the property being considered for more than 16 years, however, I have long expected development behind my home. I understand the need for residential infill in Fayetteville. That doesn't mean I like it, but I understand.

What I'm asking is for extremely careful consideration of this proposal. Rezoning that allows 10 units per acre - or anything close to that - is simply irresponsible. I don't believe that aligns w Fayetteville's 'Vision 2050' and I think there are other legitimate concerns, including drainage, loss of trees/green space/natural habitat and traffic. Traffic is already an issue in this area - a major issue for those of us who live here.

Additionally, the sheer density of 10 units per acre - or anything close to that - is a drastic deviation from what currently exists in our neighborhood. It's simply not right and I am 100-percent convinced that if you or Mitch Weigel or any reasonable person lived where my family lives, you would feel the same way.

Thank you for your time and service. Please do what is right.

Rob Keys
2792 N. Raintree Drive
(479) 957-4635

From: [CityClerk](#)
To: [Planning Shared](#); [Sparkman, Sarah](#); [Johnson, Matthew](#); [Canada, Quintin](#); [Brink, Andrew](#); [Garlock, Jimm](#); [Holcomb, Joseph](#); [Madden, Mary](#); [McGetrick, Mary](#); [Winston, Porter](#); [Berna, Scott](#); [Bolinger, Bonnie](#); [Pennington, Blake](#); [Brown, Chris](#); [Bunch, Sarah](#); [CityClerk](#); [Curth, Jonathan](#); [Harvey, Sonia](#); [Hertzberg, Holly](#); [Batker, Jodi](#); [Jones, D'Andre](#); [Rogers, Kristin](#); [Williams, Kit](#); [Jordan, Lioneld](#); [Mathis, Jeana](#); [Moore, Sarah](#); [Paxton, Kara](#); [Mulford, Patti](#); [Ramirez, Jonathan](#); [Rea, Christine](#); [Norton, Susan](#); [Spohn, Courtney](#); [Thurber, Lisa](#); [Turk, Teresa](#); [Wiederkehr, Mike](#)
Cc: tiftim@gmail.com; [CityClerk](#)
Subject: FW: Old wire/boxwood project
Date: Wednesday, February 22, 2023 8:36:08 AM
Attachments: [image001.png](#)

Good morning everyone,

Please see the e-mail below from Ms. Tiffany Meeks as a follow up to the previously shared message.

Thank you and have a nice day,
Jonathan

Office of the City Clerk Treasurer

City of Fayetteville, Arkansas
113 West Mountain St, Suite 308
Fayetteville, AR 72701
T 479.575.8323

cityclerk@fayetteville-ar.gov

[Website](#) | [Facebook](#) | [Twitter](#) | [Instagram](#) | [YouTube](#)

City of Fayetteville Logo-01



From: Tiffany Timmons <tiftim@gmail.com>
Sent: Wednesday, February 22, 2023 6:14 AM
To: CityClerk <cityclerk@fayetteville-ar.gov>
Subject: Re: Old wire/boxwood project

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.

Hi Sarah,

Thank you for your response. It does seem very counterproductive that the city council and the school board don't have more of a connection. I am very frustrated with the school district, my 3 children will all attend McNair which is over crowded and building more homes in an already full district without any plans to build a new school seems ridiculous. I attended FPS and had a lovely experience. I'm not sure my kids will enjoy the same if they are forced to attend schools out of their district due to over crowding. Does the city have any input on schools or district lines? If not I think that should be looked at more closely. How can a city function properly without enough schools to support its growing population?

Im not a city planner or school district expert but I would think both need to be on the same page as our city moves forward, knowing there will only be more growth and more children that need to

attend schools. I would never be able to get to work on time if my kids were redistributed to a school on the west side. The school bus commissioner has said there's no possible way for them to bus kids from the east side to the west side with the shortage of drivers and the amount of kids needing bus services. This is a big concern for my family. When I see more houses going up it just makes me a bit angry knowing it's my kids education that's going to suffer not the city.

Thank you!

Tiffany (Timmons) Meeks

Sent from my iPhone

On Feb 21, 2023, at 8:24 AM, CityClerk <cityclerk@fayetteville-ar.gov> wrote:

Good morning everyone,
Please see the e-mail below from Ms. Tiffany Meeks.

Thank you and have a nice day,
Jonathan

Office of the City Clerk Treasurer

City of Fayetteville, Arkansas

113 West Mountain St, Suite 308

Fayetteville, AR 72701

T 479.575.8323

cityclerk@fayetteville-ar.gov

[Website](#) | [Facebook](#) | [Twitter](#) | [Instagram](#) | [YouTube](#)



From: Bunch, Sarah <sarah.bunch@fayetteville-ar.gov>

Sent: Monday, February 20, 2023 11:19 AM

To: CityClerk <cityclerk@fayetteville-ar.gov>

Cc: Tiffany Timmons <tiftim@gmail.com>

Subject: Fwd: Old wire/boxwood project

Can the Clerk's office please share this email with planning staff, the members of the planning commission, and the city council? Thank you very much.

Sarah

Sent from my iPad

Begin forwarded message:

From: Tiffany Timmons <tiftim@gmail.com>
Date: February 13, 2023 at 2:09:07 PM CST
To: "Bunch, Sarah" <sarah.bunch@fayetteville-ar.gov>
Subject: Old wire/boxwood project

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.

Hi!

I am sending you this email to speak out in opposition to the proposed development near old wire and boxwood. I live off old wire and my kids attend FPS. We need more roads and schools in this area before any more residence come into the mix. We desperately need another middle school on the east side, as well as more side walks and a wider old wire to accommodate traffic.

The traffic in this area during commute times is too busy for more dwellings.

More schools and roads please, not more houses and people. Thank you.

Tiffany Meeks
479-530-1428

City of Fayetteville, Arkansas
113 West Mountain St, Suite 308
Fayetteville, AR 72701
T 479.575.8323

cityclerk@fayetteville-ar.gov

[Website](#) | [Facebook](#) | [Twitter](#) | [Instagram](#) | [YouTube](#)



From: Rob Qualls <robbieq@gmail.com>
Sent: Monday, February 27, 2023 12:53 PM
To: CityClerk <cityclerk@fayetteville-ar.gov>
Subject: RZN-2023-0004 Support

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.

Please forward to the Planning Commissioners, Ward 3 Councilmembers, and any planning staff that should get it.

Good Afternoon,

I am writing in support of RZN-2023-0004. Some of those opposed to this development are citing morning traffic on Old wire road as a reason to deny this request. I also live in the area and have had to wait a minute or two to turn left. In my opinion, most of that traffic is coming from outside of, or at the very edge of Fayetteville. Restricting housing IN Fayetteville, is not going to help that issue. The best thing we can do for traffic is to build more housing, closer to schools, businesses, or amenities. Please approve this rezone, so we can take some pressure off of the housing market, and perhaps keep more people from driving in from Goshen and Elkins because Fayetteville's housing inventory is low.

Thanks,.

Rob Qualls

2140 E Jonquil Rd, Fayetteville, AR 72703

Wonsower, Donna

From: Alexis Stevens <aestevens3@yahoo.com>
Sent: Monday, February 27, 2023 7:12 PM
To: Planning Shared; Hopkins, Mirinda; Wonsower, Donna; Umberger, Ryan; Bunch, Sarah; Berna, Scott
Cc: Nick Mote
Subject: Re: Rezoning of 2910 N Old Wire Road, Fayetteville, AR - Nick Mote and Alexis Stevens Statement in Opposition

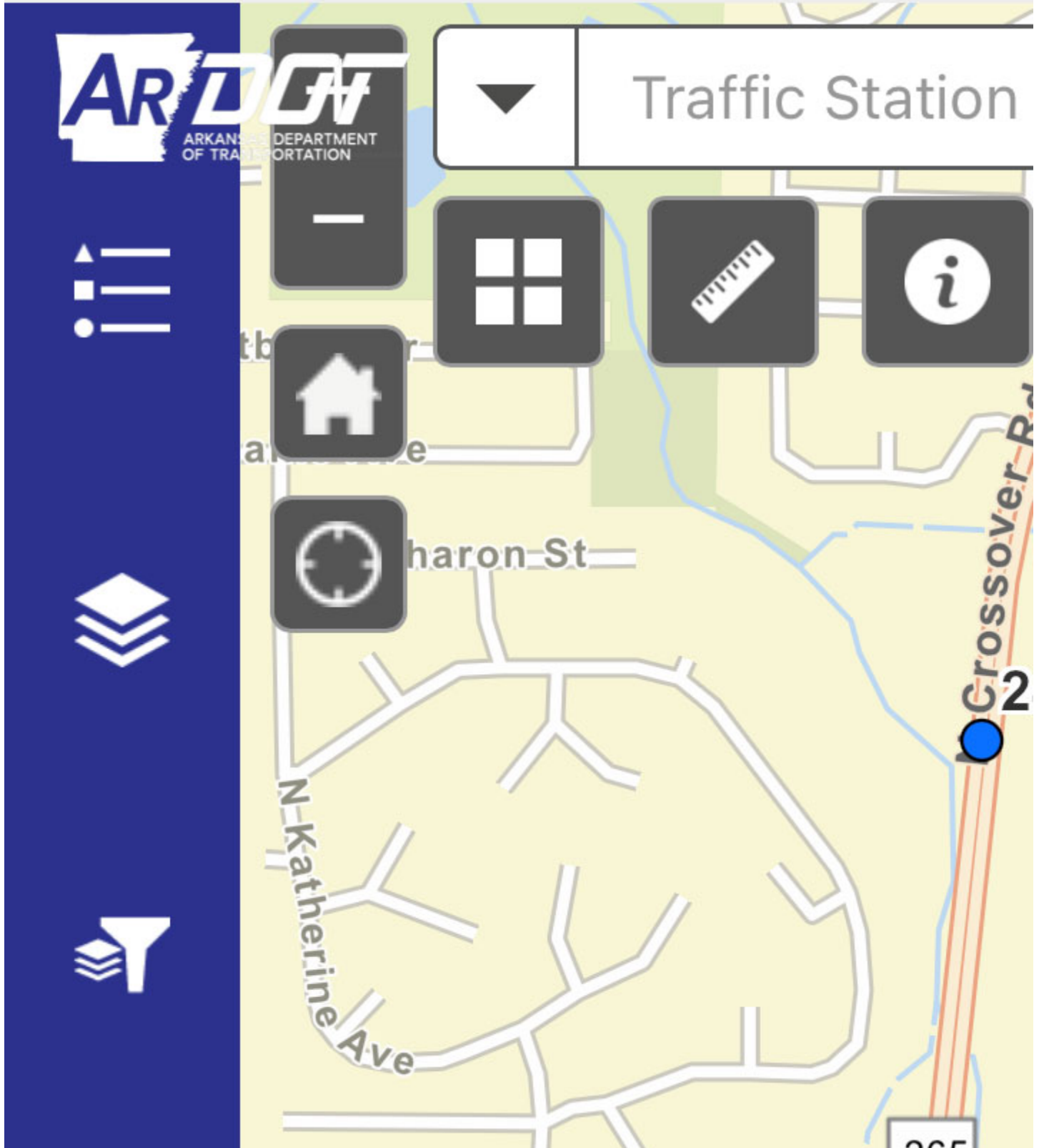
CAUTION: This email originated from outside of the City of Fayetteville. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good evening—as a follow up to my below email and supplement to the attached Statement in Opposition, attached please find traffic data from the Arkansas Department of Transportation for N Old Wire Road which includes an average daily traffic estimate of 8,300 vehicles for the most recent year studied, 2021. Please note that many of the intersecting streets on the segment of N Old Wire Road between the Old Missouri Road and Crossover intersections adjoin N Old Wire Road at steep inclines and with numerous blind spots. This portion of N Old Wire Road additionally includes several curves further decreasing visibility.

Thank you,

Alexis Stevens and Nick Mote

6:59



6:59



1 of 1

Volume Count
8,300

Station ID:

Station:

Count Type:

Count Category:

Most Recent ADT:

Most Recent ADT Year:

ARDOT District:

County:

Sent from my iPhone

> On Feb 27, 2023, at 6:28 PM, Alexis Stevens <aestevens3@yahoo.com> wrote:

>

> Good evening—attached please find a Statement in Opposition of the proposed rezoning of the property located at 2910 N Old Wire Rd, Fayetteville, AR 72703, submitted on behalf of Nick Mote and Alexis Stevens, to be presented to the City Planning Commission during its February 27, 2023, meeting related to the same.

>

> Please let me know if you have any questions or require further information.

>

> Thank you,

>

> Alexis Stevens

> <In re Rezoning of the Property Located at 2910 N Old Wire Road, Fayetteville, AR - Written Statement in Opposition Submitted by Nick Mote and Alexis Stevens.pdf>

>

> Sent from my iPhone

From: [Mary Anne Kull](#)
To: [Wonsower, Donna](#)
Cc: [Umberger, Ryan](#); [Hopkins, Mirinda](#)
Subject: Re: Project Information (RZN-2023-0004)
Date: Sunday, February 26, 2023 2:09:25 PM
Attachments: [image002.png](#)
[image001.jpg](#)
[Concerns for RZN-2023-0004.pdf](#)

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To Whom it May Concern,

I am attaching a letter about my concerns for the rezoning of 2910 N Old Wire Rd: RZN-2023-0004

Thank you so much for your consideration,
Mary Anne Kull

On Wed, Feb 8, 2023 at 11:00 AM Wonsower, Donna <dwonsower@fayetteville-ar.gov> wrote:

Mary,

This project is scheduled for the February 27 Planning Commission meeting. The packets being posted on the website tomorrow are for the meeting held on February 13, and the packets for the February 27 meeting will be posted in a few weeks. Our apologies for any confusion. Regarding the required mailing, we received a certificate stating that the letters were sent out yesterday (2/7) in advance of the fifteen day requirement so keep an eye on your mailbox.

Short of hiring a traffic engineer, factually showing how any development will affect future traffic is difficult; however there are multiple online resources that you could utilize to present facts regarding the current traffic around your neighborhood such as traffic counts from ARDoT, records of vehicle crashes and their severity from the police, any news articles that discuss significant delays specific to your neighborhood and its immediate surroundings, or primary sources like this. My recommendation would be to stay away from opinions like "traffic is terrible here," and instead make statements such as "In the past three weeks, it has taken me an average of twenty minutes to leave my neighborhood every morning because of the amount of traffic on N Old Wire Rd," and to bring data to back up any sources you cite in your research. You are also welcome to email staff with any documents ahead of the meeting and to call with questions.

Best Regards,

Donna Wonsower

Planner, Development Services

City of Fayetteville, Arkansas

Office: 479.575.8358

[Website](#) | [Facebook](#) | [Twitter](#) | [Instagram](#) | [YouTube](#)



From: Mary Anne Kull [<mailto:>]
Sent: Wednesday, February 08, 2023 8:48 AM
To: Hopkins, Mirinda <mbhopkins@fayetteville-ar.gov>
Subject: Project Information

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.

Good morning!

Thank you so much for providing this information. What do I need to do to prove that this change will factually affect vehicular patterns adversely for patrons of my neighborhood?

I am so thankful for this information. We have not received the required mailing for this zoning request. Do you know if it has been sent out as the application requires?

Thank you!

Mary Anne

On Wednesday, February 8, 2023, Hopkins, Mirinda <mhopkins@fayetteville-ar.gov> wrote:

Mary Anne,

I have attached the submitted request letter. Planning reports will be posted to our website tomorrow afternoon. Let me know if you need anything else.

<https://fayettevillear.portal.civicclerk.com/>

Thank you

Mirinda Hopkins

Development Coordinator

Planning Division

City of Fayetteville

479-575-8267

[Website](#) | [Facebook](#) | [Twitter](#) | [Instagram](#) | [YouTube](#)



From: Mary Anne Kull [mailto:makull1017@gmail.com]

Sent: Tuesday, February 07, 2023 11:01 PM

To: Planning Shared <planning@fayetteville-ar.gov>; Hopkins, Mirinda <mhopkins@fayetteville-ar.gov>

Subject: Project Information

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.

Good Day,

I am inquiring about the project information for Plan Number: **RZN-2023-0004**

The posted written notification form indicates that project information is available for public view from the City of Fayetteville Planning Division, but I have not been able to locate it on the submitted application or the planning divisions portion of the website. I would appreciate your help with this information.

I am highly concerned about this area being rezoned as NC NEIGHBORHOOD CONSERVATION. Traffic on Old Wire is already highly congested. I am hardly able to make a left hand turn in the mornings to take my children to Butterfield Elementary School. I cannot imagine how that will be amplified with the potential of 10 residential units per acre being permitted in this area. The vocabulary "neighborhood conservation" is very misleading in this instance as currently this area is completely wooded. I am concerned that there is a deliberate deception by choosing this as the zoning to prevent neighbors from being concerned. This will allow signification change to my current neighborhood and will negatively affect the character and home values in the immediate area.

I believe that the current zoning of RSF-4 is appropriate to maintain true neighborhood conservation for this area.

I look forward to seeing more detailed plans.

Sincerely,
Mary Anne Kull

2840 N Raintree Drive
Fayetteville, AR 72703

February 26, 2023

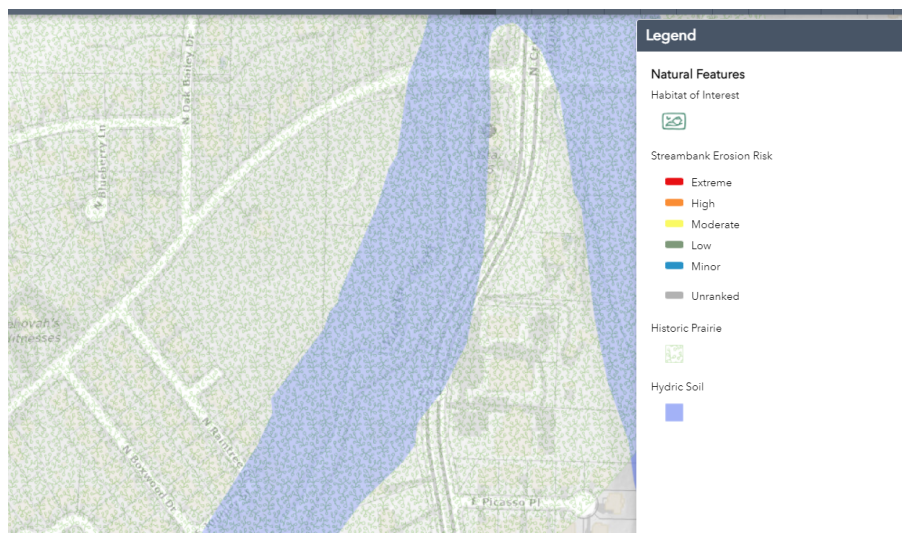
To Whom It May Concern:

I am writing to express my deep concern about the proposed rezoning of 2910 N Old Wire Rd from RSF-4 to NC. As a resident of this area, I believe that this rezoning will have a significant negative impact on our community and our environment.

One of my main concerns is the increase in traffic that this development will bring to our area. The roads around 2910 N Old Wire Rd are narrow and already congested. Adding more cars to this area will only exacerbate the problem. This will make it more difficult and dangerous for residents to travel to and from their homes, and could even lead to accidents and other safety concerns. I took the below picture from my street corner of Raintree Dr. and N Old Wire Rd. at 4:28PM Tuesday, February 21. Notice that cars are backed up all the way from Crossover to Raintree. What will the addition of more dense housing and businesses (as allowed under the NC zoning), with potentially hundreds of cars added do to the traffic? What about the Fire Station? With the addition of traffic in this area does it cause concern for life saving minutes being lost as the fire truck and emergency responders will be required to navigate through the additional commuters?



2910 N Old Wire contains hydric soil and due to the slope of the land, anything that is developed at this property will have runoff into the hydric soil areas pictured below. What will happen to the ecosystem surrounding the Niokaska Trail with the addition of hazardous runoff from the proposed significantly denser development?

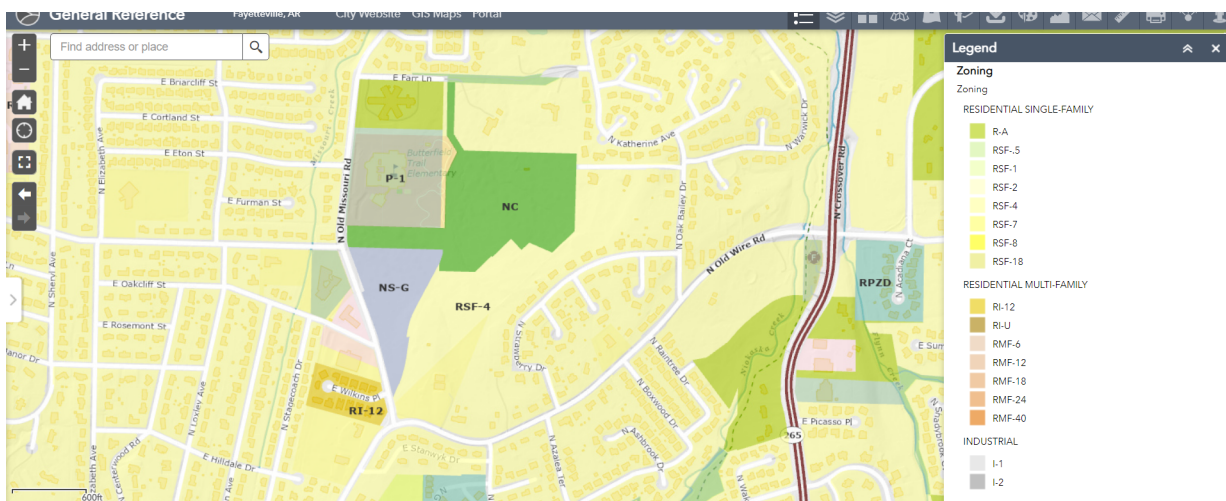


I believe that this rezoning does not align with the City of Fayetteville's "Vision 2050" plan. This plan emphasizes sustainable development and responsible use of natural resources, and I believe that this development will only contribute to the environmental degradation of our area.

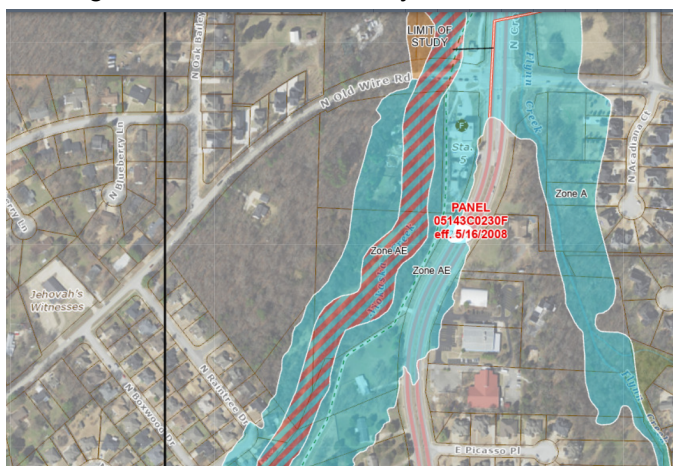
As a mom of 3 children, our oldest child attends Fayetteville public schools with our middle child to join her next year in kindergarten. I am currently following Fayetteville's dilemma with having enough room in McNair Middle school for the children in our neighborhood. Currently, the board does not have a solution. The proposal to bring in the addition of potentially many families and many more children is simply not supported by the current school zone structure.

Furthermore, I have some serious questions about the statement of compatibility submitted by Jorgensen & Associates. The statement of compatibility states, "This request to rezone a portion of the RSF-4 to Neighborhood Conservation and adjust the R-A zoning line to match the 100-year floodplain is compatible with neighboring property and will not unreasonably adversely affect or conflict with surrounding land uses." Has Jorgensen and Associates provided a study by a professional to support this claim? What will they do and be liable for in the instance that it does in fact "unreasonably adversely affect or conflict" with the surrounding land uses?

The statement of compatibility continues to state, "Within reasonable proximity, rezoning of the property south of Butterfield Elementary to NC, sets a precedence for similar development patterns that serve to promote and protect neighborhood character." This is untrue. The area next to Butterfield Elementary was just recently rezoned as NC. Outside of that one area, this entire area is zoned as RSF-4. This rezoning will drastically change the feel of driving up Old Wire from Crossover. Currently, it is a wooded residential area. The zoning of RSF-4 is what "sets a precedence for similar development patterns that serve to promote and protect neighborhood character." Please see this image to show the zoning for the surrounding areas as evidence:



The compatibility statement continues to state, "The zoning line has been adjusted to follow the 100-year flood plain and this zoning line makes more sense than the current zoning line and will ensure that the floodplain would be of minimal impact." Where is the study that has been conducted by a professional to attest that this statement is true? After multiple conversations with environmentalists, I have been advised that due to the increase in impervious surfaces in a wooded area with soil that it will absolutely have a major impact on flooding in an area near already established flood zone hazards.



The compatibility statement also says, "Given the proximity to the Fire Station, Crossover (Regional Link), and the Niokaska Trail, we feel that this rezoning is supported in a multitude of ways and will not adversely impact vehicular patterns." Has Jorgensen and Associates contracted a traffic engineer to verify that this statement is true? Based on my personal experience living next to the property in question, there is already substantial traffic during commuter times on Old Wire.

In conclusion, I urge you to reconsider the proposed rezoning of 2910 N Old Wire Rd from RSF-4 to NC. I believe that this development will create additional traffic strain on the area, negatively impact the environment, does not align with the City of Fayetteville's "Vision 2050", and the area simply does not have the infrastructure established to support such a drastic change. Thank you for your time and consideration.

Sincerely,
 Mary Anne Kull
 2840 N Raintree Dr
makull1017@gmail.com
 501-773-1278

