Alderman Adela Gray
Ward 1 Position 1

Alderman Sarah Marsh
Ward 1 Position 2

Alderman Mark Kinion
Ward 2 Position 1

Alderman Matthew Petty
Ward 2 Position 2

Alderman Justin Tennant
Ward 3 Position 1

Alderman Martin W. Schoppmeyer, Jr.
Ward 3 Position 2

Alderman Rhonda Adams
Ward 4 Position 1

Alderman Alan T. Long
Ward 4 Position 2

Mayor Lioneld Jordan
City Attorney Kit Williams
City Clerk Sondra E. Smith

Revised Final Agenda
City of Fayetteville Arkansas
City Council Meeting
June 17, 2014

A meeting of the Fayetteville City Council will be held on June 17, 2014 at 5:30 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

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 APPROVED**

Agenda Additions:

A. Consent:

1. Approval of the June 03, 2014 City Council meeting minutes. **APPROVED**

2. **Net Neutrality:** A resolution to express the City Council's support for Net Neutrality.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 110-14

3. **Arkansas Historic Preservation Program:** A resolution approving a grant agreement with the Arkansas Historic Preservation Program in the amount of $8,515.00 for travel and training, and for hiring a qualified consultant to research and catalog historic structures; and approving a budget adjustment recognizing the grant revenue.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 111-14

4. **Arkansas State Highway and Transportation Department:** A resolution to authorize a payment of $3,500,000.00 to the Arkansas State Highway and Transportation Department representing an initial payment of the City's portion of construction, right of way acquisition and utility relocation costs related to the widening of Highway 112.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 112-14

5. **Repeal Resolution No. 143-14 & Pacific Vet Group-USA, Inc. Land Sale:** A resolution to repeal Resolution No. 143-14 and to sell about 24 acres in the Fayetteville Commerce District (formerly Industrial Park) to Pacific Vet Group-USA, Inc. for $360,000.00 and other valuable consideration and to approve a budget adjustment.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 113-14

6. **Benedict Settlement – Van Ashe Drive:** A resolution to authorize a settlement agreement with Dale and Martha Benedict concerning condemnation litigation filed as part of the Van Ashe Drive construction project.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 114-14

B. Unfinished Business: None

C. New Business:

1. **Fayetteville Natural Areas Preservation Account:** A resolution to establish the "Fayetteville Natural Areas Preservation Account" and to establish requirements for disbursals therefrom.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 115-14

2. **Amended Articles of Incorporation for the Walton Arts Center Council and Foundation:** An ordinance to approve the Fifth Amendment to the Articles of Incorporation of the Walton Arts Center Foundation, Inc., the Sixth Amendment of the Articles of Incorporation of the Walton Arts Center Council, Inc. and their amended Bylaws, and the Amended and Restated Interlocal Cooperation Agreement between the University of Arkansas and the City of Fayetteville.

   THIS ITEM WAS LEFT ON THE FIRST READING

3. **Walton Arts Center Council, Inc. Lease:** A resolution to approve an amended and restated lease agreement among the University of Arkansas and City of Fayetteville as landlords and the Walton Arts Center Council, Inc. as tenant.

   THIS ITEM WAS TABLED TO THE JULY 1, 2014 CITY COUNCIL MEETING

D. City Council Agenda Session Presentations:

1. "My Fayetteville Services" Presentation by City GIS director Greg Mitchell

E. City Council Tour:

F. Announcements:

Adjournment: 6:35 p.m.

NOTICE TO MEMBERS OF THE AUDIENCE

All interested persons may address the City Council on agenda items of New and Old Business. Please wait for the Mayor to request public comment and then come to the podium, give your name, address, and comments about the agenda item. Please address only the Mayor. Questions are usually answered by the Mayor, Aldermen or Staff after the public comment period is over. Please keep your comments brief and respectful. Each person is only allowed one turn at the microphone for discussion of an agenda item.

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

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 an Alderman 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.
>
> **Old business and new business.**
>
>> **Presentations by staff and applicants.** Agenda items 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 an alderman later to answer questions. Staff and applicants may use electronic visual aids in a City Council meeting as part of their presentation.
>>
>> **Public comments.** Public comment shall be allowed for all members of the audience on all items of old and new business and subjects of public hearings. No electronic visual aid presentations shall be allowed, but the public may submit photos, petitions, etc. to be distributed to the City Council. If a member of the public wishes for the City Clerk to distribute materials to the City Council before its meeting, such materials should be supplied to the City Clerk office no later than 9:00 a.m. on the day of the City Council meeting. Any member of the public shall first state his or her name and address, followed by a concise statement of the person's position on the question under discussion. Repetitive comments should be avoided; this applies to comments made previously either to the City Council or to the Planning Commission when those Planning Commission minutes have been provided to the Aldermen. All remarks shall be addressed to the Mayor or the City Council as a whole and not to any particular member of the City Council. No person other than the Aldermen and the person having the floor shall be permitted to enter into any discussions without permission of the Mayor. No questions shall be directed to an Alderman or city staff member except through the Mayor.
>
> **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 rude or derogatory remarks, reflections as to integrity, abusive comments and statements about motives or personalities. 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 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 at www.fayetteville-ar.gov or in the office of the City Clerk, 113 W. Mountain, Fayetteville, Arkansas.

City Council Meeting: **June 17, 2014** **Adjourn:** 6:35 pm

Subject:	Roll				
	Schoppmeyer	✓			
	Adams	✓			
	Long	✓			
	Gray	✓			
	Marsh	✓			
	Kinion	✓			
	Petty	✓			
	Tennant	✓			
	Mayor Jordan	✓			

9-0

Subject:	Nominating Committee Report				
Motion To:		Approve			
Motion By:		Marsh			
Seconded:		Tennant			
	Schoppmeyer	✓			
	Adams	✓			
Approved	Long	✓			
	Gray	✓			
	Marsh	✓			
	Kinion	✓			
	Petty	✓			
	Tennant	✓			
	Mayor Jordan				

8-0

City Council Meeting: **June 17, 2014**

Subject:	**Consent**					
Motion To:		Approve				
Motion By:		Gray				
Seconded:		Petty				
	Schoppmeyer	✓				
Minutes Approved	**Adams**	✓				
	Long	✓				
	Gray	✓				
Approved	**Marsh**	✓				
	Kinion	✓				
110-14	**Petty**	✓				
thru	**Tennant**	✓				
114-14	**Mayor Jordan**					

8-0

Subject:						
Motion To:						
Motion By:						
Seconded:						
	Schoppmeyer					
	Adams					
	Long					
	Gray					
	Marsh					
	Kinion					
	Petty					
	Tennant					
	Mayor Jordan					

City Council Meeting: June 17, 2014

Subject:	None				
Motion To:					
Motion By:					
Seconded:					
B. 1 Unfinished Business	Schoppmeyer				
	Adams				
	Long				
	Gray				
	Marsh				
	Kinion				
	Petty				
	Tennant				
	Mayor Jordan				

Subject:					
Motion To:					
Motion By:					
Seconded:					
	Schoppmeyer				
	Adams				
	Long				
	Gray				
	Marsh				
	Kinion				
	Petty				
	Tennant				
	Mayor Jordan				

City Council Meeting: **June 17, 2014**

Subject:	**Fayetteville Natural Areas Preservation Account**				
Motion To:		Approve			
Motion By:		Gray			
Seconded:		Long			
C. 1	**Schoppmeyer**	✓			
New	**Adams**	✓			
Business	**Long**	✓			
	Gray	✓			
	Marsh	✓			
Passed	**Kinion**	✓			
	Petty	✓			
	Tennant	✓			
115-14	**Mayor Jordan**				
		8-0			

Subject:	**Amended Articles of Incorporation for the Walton Arts Center Council and Foundation**				
Motion To:		Amend - Ordinance	motion to table the admendment to July 1, 2014		
Motion By:		Tennant	Petty		
Seconded:		Long	Kinion		
C. 2	**Schoppmeyer**		✓	Get Admendment	
New	**Adams**		✓	Wording from	
Business	**Long**	This motion	✓	Kit.	
	Gray	was	✓		
Amended and	**Marsh**	tabled.	✓		
Left on	**Kinion**		✓		
the First	**Petty**		✓		
Reading.	**Tennant**		✓		
	Mayor Jordan				
		Ø	8-0		

City Council Meeting: June 17, 2014

Subject:	Walton Arts Center Council, Inc. Lease				
Motion To:		Table to July 1, 2014			
Motion By:		Adams			
Seconded:		Long			
C. 3	Schoppmeyer	✓			
New	Adams	✓			
Business	Long	✓			
	Gray	✓			
Tabled	Marsh	✓			
to	Kinion	✓			
July	Petty	✓			
1, 2014	Tennant	✓			
	Mayor Jordan				

8-0

Subject:					
Motion To:					
Motion By:					
Seconded:					
	Schoppmeyer				
	Adams				
	Long				
	Gray				
	Marsh				
	Kinion				
	Petty				
	Tennant				
	Mayor Jordan				

OFFICE OF THE
CITY ATTORNEY

DEPARTMENTAL CORRESPONDENCE

Kit Williams
City Attorney

Blake Pennington
Assistant City Attorney

Patti Mulford
Paralegal

TO: **Mayor Jordan**

THRU: **Sondra Smith,** City Clerk

FROM: **Kit Williams,** City Attorney

DATE: **June 18, 2014**

RE: **Resolutions and Ordinances prepared by the City Attorney's Office and passed at the City Council meeting of June 17, 2014**

1. **Net Neutrality:** A resolution to express the City Council's support for Net Neutrality.

2. **Arkansas State Highway and Transportation Department:** A resolution to authorize a payment of $3,500,000.00 to the Arkansas State Highway and Transportation Department representing an initial payment of the City's portion of construction, right of way acquisition and utility relocation costs related to the widening of Highway 112.

3. **Repeal Resolution No. 143-14 & Pacific Vet Group-USA, Inc. Land Sale:** A resolution to repeal Resolution No. 143-14 and to sell about 24 acres in the Fayetteville Commerce District (formerly Industrial Park) to Pacific Vet Group-USA, Inc. for $360,000.00 and other valuable consideration and to approve a budget adjustment.

4. **Benedict Settlement – Van Ashe Drive:** A resolution to authorize a settlement agreement with Dale and Martha Benedict concerning condemnation litigation filed as part of the Van Ashe Drive construction project.

5. **Fayetteville Natural Areas Preservation Account:** A resolution to establish the "Fayetteville Natural Areas Preservation Account" and to establish requirements for disbursals therefrom.

Alderman Adela Gray
Ward 1 Position 1

Alderman Sarah Marsh
Ward 1 Position 2

Alderman Mark Kinion
Ward 2 Position 1

Alderman Matthew Petty
Ward 2 Position 2

Alderman Justin Tennant
Ward 3 Position 1

Alderman Martin W. Schoppmeyer, Jr.
Ward 3 Position 2

Alderman Rhonda Adams
Ward 4 Position 1

Alderman Alan T. Long
Ward 4 Position 2

Mayor Lioneld Jordan
City Attorney Kit Williams
City Clerk Sondra E. Smith

Revised Final Agenda
City of Fayetteville Arkansas
City Council Meeting
June 17, 2014

A meeting of the Fayetteville City Council will be held on June 17, 2014 at 5:30 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

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**

Agenda Additions:

A. Consent:

1. Approval of the June 03, 2014 City Council meeting minutes.

2. **Net Neutrality:** A resolution to express the City Council's support for Net Neutrality.

3. **Arkansas Historic Preservation Program:** A resolution approving a grant agreement with the Arkansas Historic Preservation Program in the amount of $8,515.00 for travel and training, and for hiring a qualified consultant to research and catalog historic structures; and approving a budget adjustment recognizing the grant revenue.

4. **Arkansas State Highway and Transportation Department:** A resolution to authorize a payment of $3,500,000.00 to the Arkansas State Highway and Transportation Department representing an initial payment of the City's portion of construction, right of way acquisition and utility relocation costs related to the widening of Highway 112.

5. **Repeal Resolution No. 143-14 & Pacific Vet Group-USA, Inc. Land Sale:** A resolution to repeal Resolution No. 143-14 and to sell about 24 acres in the Fayetteville Commerce District (formerly Industrial Park) to Pacific Vet Group-USA, Inc. for $360,000.00 and other valuable consideration and to approve a budget adjustment.

6. **Benedict Settlement – Van Ashe Drive:** A resolution to authorize a settlement agreement with Dale and Martha Benedict concerning condemnation litigation filed as part of the Van Ashe Drive construction project.

B. Unfinished Business: None

C. New Business:

1. **Fayetteville Natural Areas Preservation Account:** A resolution to establish the "Fayetteville Natural Areas Preservation Account" and to establish requirements for disbursals therefrom.

2. **Amended Articles of Incorporation for the Walton Arts Center Council and Foundation:** An ordinance to approve the Fifth Amendment to the Articles of Incorporation of the Walton Arts Center Foundation, Inc., the Sixth Amendment of the Articles of Incorporation of the Walton Arts Center Council, Inc. and their amended Bylaws, and the Amended and Restated Interlocal Cooperation Agreement between the University of Arkansas and the City of Fayetteville.

3. **Walton Arts Center Council, Inc. Lease:** A resolution to approve an amended and restated lease agreement among the University of Arkansas and City of Fayetteville as landlords and the Walton Arts Center Council, Inc. as tenant.

D. City Council Agenda Session Presentations:

1. "My Fayetteville Services" Presentation by City GIS director Greg Mitchell

E. City Council Tour:

F. Announcements:

Adjournment:

NOTICE TO MEMBERS OF THE AUDIENCE

All interested persons may address the City Council on agenda items of New and Old Business. Please wait for the Mayor to request public comment and then come to the podium, give your name, address, and comments about the agenda item. Please address only the Mayor. Questions are usually answered by the Mayor, Aldermen or Staff after the public comment period is over. Please keep your comments brief and respectful. Each person is only allowed one turn at the microphone for discussion of an agenda item.

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

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 an Alderman 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.
>
> **Old business and new business.**
>
>> **Presentations by staff and applicants.** Agenda items 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 an alderman later to answer questions. Staff and applicants may use electronic visual aids in a City Council meeting as part of their presentation.
>>
>> **Public comments.** Public comment shall be allowed for all members of the audience on all items of old and new business and subjects of public hearings. No electronic visual aid presentations shall be allowed, but the public may submit photos, petitions, etc. to be distributed to the City Council. If a member of the public wishes for the City Clerk to distribute materials to the City Council before its meeting, such materials should be supplied to the City Clerk office no later than 9:00 a.m. on the day of the City Council meeting. Any member of the public shall first state his or her name and address, followed by a concise statement of the person's position on the question under discussion. Repetitive comments should be avoided; this applies to comments made previously either to the City Council or to the Planning Commission when those Planning Commission minutes have been provided to the Aldermen. All remarks shall be addressed to the Mayor or the City Council as a whole and not to any particular member of the City Council. No person other than the Aldermen and the person having the floor shall be permitted to enter into any discussions without permission of the Mayor. No questions shall be directed to an Alderman or city staff member except through the Mayor.
>
> **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 rude or derogatory remarks, reflections as to integrity, abusive comments and statements about motives or personalities. 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 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 at www.fayetteville-ar.gov or in the office of the City Clerk, 113 W. Mountain, Fayetteville, Arkansas.

CERTIFIED LOCAL GOVERNMENT PROGRAM GRANT AGREEMENT
Grant Number 14-CLG-05

This agreement is entered into between the **City of Fayetteville**, Arkansas, hereinafter referred to as the City, and the Arkansas Historic Preservation Program, hereinafter referred to as AHPP. AHPP agrees to provide a grant in the amount of **$8,515** for the purpose of **providing training for the Historic District Commission and staff and to hire a consultant to research historic properties in Fayetteville to use on the City's website.**

THIS GRANT IS FOR THE ACCOMPLISHMENT OF THE PURPOSE, OBJECTIVE AND SCOPE OF WORK HEREIN DEFINED.

I. SCOPE OF WORK

A. The City will send one or more representatives of its Historic District Commission or staff to the National Alliance of Preservation Commission's 2014 FORUM and quarterly training meetings to be announced by AHPP.
$3,510 is designated for this activity.

B. The City will hire a qualified consultant to catalog, research, and verify historic structures in Fayetteville. The information will be used to update and enhance the City's website.
$5,005 is designated for this activity.

II. TIME FRAME of AGREEMENT

This agreement will begin on July 1, 2014, and shall extend until June 30, 2015.

III. SCHEDULE OF PAYMENTS

One half of the full grant amount shall be paid to the City upon a request for payment to AHPP to be submitted no earlier than July 1, 2014. The remaining half shall be paid to the City upon a request for payment to AHPP to be submitted no later than May 31, 2015.

IV. AHPP RESPONSIBILITIES

AHPP staff agrees to make periodic reviews of the project to review practices and products. AHPP reserves the right to enforce the procedures as outlined in this contract. AHPP agrees to make available advice and counsel necessary to accomplish the objectives and to render compensation upon invoice within a reasonable time frame.

V. REPORTING REQUIREMENTS

A. The City will submit quarterly reports detailing programmatic and fiscal progress of work on forms to be provided by AHPP on:
- September 30, 2014
- December 31, 2014
- March 31, 2015
- June 30, 2015 (Final)

B. The City will submit a final project report detailing all completed projects and including 5 copies each of all publications no later than June 30, 2015.

C. If changes in agreement - e.g.: scope of work, products, budgets, etc. - are required, then the City must submit a written request detailing proposed changes and wait for written approval from AHPP.

VI. COMPLIANCE

A. All policies and procedures of the Department of the Interior, the National Park Service as well as Federal regulations concerning expenditures of all Federal funds must be followed by the AHPP and all subgrant recipients. All grant projects will be administered by the AHPP in accordance with the Historic Preservation Fund Grants Manual, particularly "Chapter 9: Certified Local Governments". Separate financial records for each project will be maintained by the AHPP following Office of Management and Budget Guidelines. The City must maintain efficient and effective accountability and control of all funds received and expended under a subgrant from the AHPP.

B. The City agrees to the right of the AHPP director to review and comment on art set-up, written narrative of any printed material, and audio visual material produced by the grant prior to final printing or production and distribution.

C. The City must supply the State with evidence of compliance with Federal competitive procurement requirements for professional services and subcontractors prior to reimbursement.

D. All products and projects must comply with the applicable Secretary of the Interior's *Standards for the Rehabilitation of Historic Properties*. The *Standards* are:

1. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.

2. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall

be avoided.

3. Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.

4. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.

5. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a property shall be preserved.

6. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.

7. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.

8. Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.

9. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.

10. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

E. **SURVEY AND NATIONAL REGISTER NOMINATIONS:** All surveys and National Register Nominations (either new or those in progress) of historic structures, sites, etc. will meet the following criteria, as applicable, and will be completed by professionals who meet minimum Federal standards as specified in 36 CFR 61:

<u>CONTRACTOR'S RESPONSIBILITES</u>

Services are duties and tasks that the contractor must perform to meet the terms, conditions, and specifications of the contract.

Survey duties are:

1. It is required that the contractor complete an Arkansas Architectural Resources Form and provide site plans for each resource in the field.

2. The contractor will take 35mm black and white print photographs and color digital photographs of each resource in the field. At the very minimum the photographs should show all facades of each building. In addition, representative streetscape photographs (both black and white prints and color digital photos) will be provided by the Contractor.

3. The contractor will also need to locate each resource on a United States Geological Survey Map and provide UTM coordinates for each property. Additional hours will be spent on proper completion of forms for submission to AHPP.

4. Any new contractor must attend a training class on the procedures required for historic site survey. This one-day class, at the offices of AHPP, will train the Contractor in the proper and thorough completion of Arkansas Architectural Resources Forms, photography requirements, mapping, and compilation of the finished product.

5. The contractor must be able to adhere to set deadlines and provide initial and completed surveys by the dates set forth by AHPP.

6. The contractor will provide own transportation.

Nomination duties are:

1. It is required that the Contractor complete a National Register of Historic Places nomination form for the historic property.

2. The Contractor will take 35mm black and white print photographs and color digital photos of the historic property in the field. In the case of a proposed historic district, representative streetscape photographs (both black and white prints and color digital photos) will be provided by the Contractor. All photographs submitted must meet the National Park Service standards in *National Register Bulletin 16A: How to Complete the National Register Registration Form*. Photographs printed on Fujicolor Crystal Archive or equivalent papers do not meet the National Park Service standards, and will not be accepted.

3. The Contractor will label all photographs to be included with the completed National Register of Historic Places nomination according to the National Park Service instructions.

4. The Contractor will also need to locate the property on a United States Geological Survey Map and provide UTM coordinates for the historic district.

5. The Contractor will be responsible for presenting the proposed historic district to the Arkansas State Review Committee on Historic Preservation at the earliest meeting following completion and staff approval.

6. Any new Contractor must attend a training class on completing National Register of Historic Places nomination forms. This one-day class, at the offices of AHPP, will train the Contractor in the proper and thorough completion of National Register of Historic Places nomination forms, photography requirements, mapping, and compilation of the finished product.

7. The Contractor must be able to adhere to set deadlines and provide initial and completed nominations by the dates set forth by the AHPP.

8. The Contractor will provide own transportation.

9. The Contractor must have experience in photography using black and white and color digital photos and must provide two (2) single lens reflex cameras with wide-angle lenses for use in the field.

10. The Contractor will also provide archival sleeves for storage of negatives, photographs, and CDs for the digital photos.

11. The Contractor must work outside in extreme temperatures and provide proper attire for the weather conditions.

12. It is required that the Contractor complete National Register of Historic Places nomination forms.

13. The Contractor will perform all services and provide all materials to be produced under the contract in consultation with AHPP.

14. The Contractor will understand that all procedures developed and products provided under the contract will be subject to final approval by the committee at AHPP, Little Rock, AR.

15. The Contractor will understand that all records, data, proofs, negatives and copies pertaining to the contract will remain the property of the Agency.

16. The Contractor will conduct meetings with AHPP as required, to complete the project.

17. The AHPP will provide photocopies of completed architectural resource forms for all buildings in the district.

AHPP responsibilities (as applicable for architectural surveys and National Register Nominations)

1. The Agency will provide Arkansas Architectural Resources Forms and Ancillary Structures Forms as required by the contractor.

2. The Agency will provide access to the Agency's survey files and copies of previous survey work as required by the contractor.

3. The Agency will provide resource numbers for the contractor as required.

4. The Agency will provide a one-day training class at the AHPP offices in Little Rock on the procedures required for historic site survey. This class, at the offices of AHPP, will train the contractor in the proper and thorough completion of Arkansas Architectural Resources Forms, photography requirements, mapping, and compilation of the finished product.

The Agency will provide technical assistance as needed by the contractor.

F. **EASEMENTS:** The City will donate to AHPP a conservation easement on the property of any historic structure(s) being restored, rehabilitated, or repaired as a part of any project(s) utilizing ten thousand dollars ($10,000) or more of AHPP funds. On such projects involving private properties, it will be the City's responsibility to secure this easement for donation to AHPP before any grant funds are released.

VII. MANAGEMENT AND BUDGET GUIDELINES

The City must assure and certify that he will comply with the regulations, policies, guidelines and requirements as they relate to the application, acceptance and use of Federal funds for this federally-assisted project, as contained in attachment G of OMB circular A-102. Also the City assures and certifies that:

A. The City will comply with and administer the project in conformance with the Civil Rights Act of 1964 (Public Law 88-352), as amended; as well as 43 CFR 17 and Part 506 of the Department Manual issued by the Department of the Interior; and Section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination against the handicapped. Title VI of the Civil Rights Act of 1964 stated that no person will, on the grounds or race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the applicant received Federal financial assistance and will immediately take any measures necessary to effectuate this agreement;

B. In all hiring or employment made possible by or resulting from grant awards, the City (1) will not discriminate against any employee or applicant from employment because of race, color, religion, sex, age, or national origin, and (2) will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, age, or national origin. This requirement applies to, but is not limited to, the following: employment promotion, demotion, or transfer; recruitment or other recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The City its subgrantees will comply with all applicable statutes and Executive orders on equal employment opportunity and grant awards will be governed by the provisions, as implemented by, but not limited to, Department of the Interior policies, published in 43 CFR 17;

C. The City will give AHPP and the National Park Service or the Comptroller General through any authorized representative the access to and the right to examine all records, books, papers, or documents related to the grant;

D. The City must comply with Federal competitive procurement requirements for professional services and subcontractors and will provide documentation of such compliance upon request.

E. The City will comply with the minimum wage and maximum hours provisions of the Federal Fair Labor Standards Act, as they apply to hospital and educational institution employees of state and local governments.

F. Upon completion of the project, the Secretary of the Interior, the Comptroller General of the United States, the AHPP, and/or any of their duly authorized representatives shall have access for the purpose of financial or programmatic audit and examination any books, documents, papers and records of the City that are pertinent to the grant at all reasonable times during the period of retention provided in OMB Circular A102, attachment C, for at least three (3) years or until all claims or audit findings have been resolved.

G. Lobbying with appropriated funds. Historic Preservation Fund grants must conform to provisions of 18 USC 1913: "No part of the money appropriated by any enactment of Congress shall, in the absence of express authorization by Congress be used directly or indirectly to pay for any personal services, advertisement, telegram, telephone, letter, printed or written matter, or other device, intended or designed to influence in any manner a Member or Congress, through the proper official channels, requests for legislation OPR appropriation which they deem necessary for the efficient conduct of the public business." Thus, costs associated with activities to influence legislation pending before the Congress, commonly referred to as "lobbying," are unallowable as charges to NPS assisted grants.

H. The City must submit acceptable Federal and non-Federal share supporting documentation prior to reimbursement.

I. In addition to the terms detailed in this grant agreement, all Federal requirements governing grants (Office of Management and Budget Circulars A-87 or A-122, A-102 or A-110, and A-128) are applicable.

VIII. PUBLICATIONS AND PUBLIC INFORMATION

An acknowledgment of National Park Service and Arkansas Historic Preservation Program support must be made in connection with the publication of any material based on, or developed under, any activity supported by Historic Preservation Fund grant funds. This acknowledgment shall be in the form of a statement as follows: *The activity which is the subject of this (type of publication) has been financed (in part/entirely) with Federal funds from the National Park Service, Department of the Interior, administered through the Arkansas Historic Preservation Program, an agency of the Department of Arkansas Heritage. However, the contents and opinions do not necessarily reflect the views or policies of the Department of the Interior, nor does the mention of trade names or commercial products constitute endorsement or recommendation by the Department of the Interior or the Arkansas Historic Preservation Program.*

Press releases, publications, and other public dissemination of information by the City made possible by a grant shall acknowledge National Park Service, Department of the Interior and Arkansas Historic Preservation Program, Department of Arkansas Heritage grant support. A minimum of eight copies of any publication will be furnished by the Preservation Program will transmit three copies to the Department of the Interior Library, one copy to the National Park Service, Divisions of Personnel and Management, and one copy to the Office of Communications. The remainder will be placed in the Arkansas Historic Preservation Program files.

All printed material (publications, brochures, etc.) will be printed on recycled paper using soybean ink in accordance with Executive Proclamation Order #90-1.

IX. LIMITATION OF LIABILITY

The AHPP assumes no responsibility with respect to accidents, illness or claims arising out of any work performed under a subgrant supported project. The City is expected to take necessary steps to insure itself and its personnel and students and to comply with the applicable local, State, or Federal safety standards, including those issued pursuant to the National Occupational Safety and Health Act of 1970 (see 20 SFR 1910).

X. PROJECT CANCELLATION

Approved projects may be canceled for one or more of the following reasons:

A. The City requests project cancellation.

B. The City fails to initiate project work.

C. The City initiates work prior to receipt of written notification of project approval.

D. Project work is found not to be in conformance with conditions as stated in the grant agreement.

XI. AMENDMENTS

This agreement may be amended upon written request and approval by both parties

XII. APPROVAL OF AHPP

The City of Fayetteville is aware that this grant is contingent upon approval of the AHPP and the availability of funds; and agrees that no work will begin on the project until written approval from the AHPP is received.

SIGNATURES

Frances McSwain
Frances McSwain
Director, Arkansas Historic Preservation Program
Deputy State Historic Preservation Officer

June 2, 2014
Date

City of Fayetteville Signature

Name (printed)

Title

Date

Added at Agenda Session 6-10-14

City of Fayetteville Item Review Form

2014-0241

Legistar File Number

06/17/2014

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

Jeremy Pate JP	Development Services
Submitted By	**Department**

Action Required:

Approval of a contract with Pacific Vet Group - USA, Inc. (PVG) for the sale of approximately 24 acres of land owned by the City of Fayetteville water and sewer utility on Industrial Drive in the Fayetteville Commerce District, for $360,000.

Does this item have a cost? No

Cost of this request	Category or Project Budget	Program or Project Name
Account Number	Funds Used to Date	Program or Project Category
	$0.00	
Project Number	Remaining Balance	Fund Name

Budgeted Item? No **Budget Adjustment Attached?** Yes

V20130812

Previous Ordinance or Resolution # 143-13

ENTERED 5/29/14 pm

ENTERED 6/3/14

Original Contract Number:

Comments:

June 3, 2014

6-3-2014

6-3-2014

CITY OF
Fayetteville
ARKANSAS

CITY COUNCIL AGENDA MEMO

MEETING OF JUNE 17, 2014

TO: Mayor and City Council

THRU: Don Marr, Chief of Staff

FROM: Jeremy Pate, Development Services Director JP

DATE: May 29, 2014

SUBJECT: **Sale of 24 acres of Land in the Commerce District to Pacific Vet Group-USA, Inc.**

RECOMMENDATION:
City Staff recommends approval of a contract with Pacific Vet Group-USA (PVG) for the sale of approximately 24 acres of land owned by the City of Fayetteville on Industrial Drive in the Fayetteville Commerce Park, for a purchase price of $360,000.

BACKGROUND:
In June of 2013, the City Council approved a contract with PVG to sell approximately 14.9 acres of land along City Lake Road in the Commerce Park for the construction of a facility for research, development and manufacturing of animal health products. PVG is a privately held bioscience company specializing in the development and commercialization of science-based probiotic products for the poultry industry. PVG has indicated this $6.7 million investment to construct and occupy a new facility in Fayetteville would result in at least 47 new jobs within 60 months at an average annual salary of $66,000.

After geotechnical studies were completed on the City Lake Road property, the soil conditions were found to be less than ideal for this particular development, resulting in significant cost increases in construction. The City decided to conduct geotechnical studies for other city-owned properties within the Commerce District to understand overall suitability for development, and discussed with PVG the potential of another property on which they could construct their facility. PVG has identified Tract #14 on Industrial Drive, a 37.1 acre property, as suitable for their long-term needs. This land is adjacent to the City's Water and Sewer Operations Center. However, PVG does not need the entire 37 acres, approximately 13 of which at the rear of the property is located within floodplain and streamside buffer areas. Rather, they prefer to only purchase the developable area of land outside of the designated floodplain.

DISCUSSION:
The attached land sale agreement is intended to reflect the same basic terms reached between PVG and the City of Fayetteville in our previous contractual arrangement. The proposal is to sell 24 of the 37.1 acres in Tract 14 of the Commerce Park for $15,000 per acre, resulting in a $360,000 purchase price. Payment for the cost of the land will be amortized over 20 years with the first 5 years fixed at an interest rate of the Federal Reserve Rate plus one percent (1%). At the end of the 5th year, the interest rate will be modified annually based on the Federal Reserve

Rate plus one percent (1%) on each anniversary date. The AEDC has committed to providing economic development assistance in a manner similar to the previous development site, on this new property. In order for the project to be eligible for AEDC funding support, the City must contribute to the economic development project as well. As with the previous proposal, the City proposes to contribute by offering a discounted purchase price of $15,000 per acre (compared to a normal $20,000 asking price for similarly situated land in the Commerce District), as well as assistance with up to $200,000 of infrastructure investment, which could include water and/or sewer line extensions and other work within public easements or rights-of-way. The City will retain the remaining 13.1 acres, granting PVG a Right of First Refusal to acquire the balance of the land in the future, if the City ever decides to sell. Please see the attached maps for reference.

City Code §34.27 establishes requirements regarding public notice and procedure for the sale of real property owned by the City of Fayetteville. City Staff has performed all necessary public notification procedures in compliance with this city ordinance, including mailing adjacent property owners, posting a sign and publishing the agenda item in the local newspaper. Additionally, the City Council must establish that this land is no longer needed for municipal purposes. As a purpose of the Commerce District is to encourage economic development that generates revenue for the City by providing new and expanded services, and finding that there is no identified use for the subject property for municipal purposes, staff requests that the Council establish that this land is no longer needed for municipal purposes.

BUDGET/STAFF IMPACT:
$360,000 in sale revenue will be paid to the Water/Sewer fund and General Fund, since both funds have ownership on portions of the subject property. Based upon a $360,000 purchase price, the General Fund would receive 70.8% of the proceeds for a total of $254,880. The Water/Sewer Fund would receive 29.2% for a total of $105,120. Up to $200,000 in City staff time and materials may be utilized to provide public infrastructure work for economic development assistance, under the same terms of agreement approved with the previous contract for sale.

Attachments:

- Draft resolution
- Proposal Letter and Land Sale Agreement
- Location Map(s)
- Tentative Site Layout
- Previous Council Resolutions of Support

Fayetteville Chamber of Commerce

MEMORANDUM

TO: **Don Marr, Chief of Staff**
City of Fayetteville

FROM: **Steve Clark, Chamber President & CEO**

SUBJECT: **Pacific Vet Group-USA's (PVG) purchase of City's land in the Fayetteville Commerce District**

DATE: **May 22nd, 2014**

The Chamber has been coordinating the sale of city owned land in the Fayetteville Commerce District between the City and PVG.

The City Council had originally approved to sell 15 acres of city land located at the City Lake Road at the Fayetteville Commerce District for $15,000 an acre. Geo technical studies conducted at the site (Parcel # 765-16574-000) showed soil conditions that made the site not optimum for PVG's development. The City has been a great partner in carrying out additional geotechnical studies on other city-owned sites in the Commerce District to find a replacement site.

PVG has now identified Tract 14 (Parcel # 765-16578-000) as the site suitable for their development. This is a 37.1 acres tract located at Industrial Drive in the Commerce District.

1) PVG proposes to buy 24 of the 37.1 acres from the City at the same price of $15,000 per acre and same financial terms and conditions as the original parcel.

2) PVG looks forward to working on obtaining city's approval as soon as convenient so that they may start their development. This $6.7 million project is expected to create 47 new jobs within 60 months with an annual salary of $66,000 each.

Attached are a draft Land Sale Agreement for Tract 14.

New Resolution 6-20-14

RESOLUTION NO. ______

A RESOLUTION TO REPEAL RESOLUTION NO. 143-14 AND TO SELL ABOUT 24 ACRES IN THE FAYETTEVILLE COMMERCE DISTRICT (FORMERLY INDUSTRIAL PARK) TO PACIFIC VET GROUP-USA, INC. FOR $360,000.00 AND OTHER VALUABLE CONSIDERATION AND TO APPROVE A BUDGET ADJUSTMENT

WHEREAS, the initial site in the Industrial Park which the City through Resolution No. 143-14 agreed to sell Pacific Vet Group-USA, Inc. for $223,500.00 was later determined to be geologically unusable for its proposed development; and

WHEREAS, another 24 acre site in the Industrial Park has been examined and found acceptable by Pacific Vet Group-USA, Inc. for its new facility.

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 agrees to sell about twenty four (24) acres of Tract 14 on Industrial Drive in the Fayetteville Commerce District (formerly the Industrial Park) for $360,000.00 and other valuable consideration as specified and pursuant to the attached Land Sale Agreement. Mayor Jordan is hereby authorized to sign the Land Sale Agreement and all necessary documents (including deeds) that are necessary to effectuate the Land Sale Agreement.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby approves the attached Budget Adjustment.

PASSED and **APPROVED** this 17th day of June 2014.

APPROVED: ATTEST:

By: ______________________________
LIONELD JORDAN, Mayor

By: ______________________________
SONDRA E. SMITH, City Clerk/Treasurer

City of Fayetteville, Arkansas - Budget Adjustment Form (Legistar)

Budget Year	Division: Development Services	Adjustment Number
2014	Dept.: Development Services	
	Requestor: Jeremy Pate	

BUDGET ADJUSTMENT DESCRIPTION / JUSTIFICATION:

$30,620 in the Transfer to Water & Sewer account to reimburse the Water & Sewer Fund for market value of the sale of 24 acres of Industrial Park Property. $74,500 has already been budgeted back from June 18, 2013 (BA# 13-227) for reimbursement of the sale of 14.9 acres.

It is estimated that Water/Sewer will receive 29.2% for a total of $105,120.

COUNCIL DATE: 6/17/2014

LEGISTAR FILE ID#: **2014-0241**

Kevin Springer
5/29/2014 10:40 AM

Budget Director Date

TYPE:

DESCRIPTION:

GLDATE:

POSTED: /

RESOLUTION/ORDINANCE

v.20140428

Account Number	Increase / (Decrease) Expense	Revenue	Project.Sub# Project	Sub	AT	Account Name
TOTAL	30,620	30,620				
	-	-				
1010.6600.7602.40	30,620	-	57018	5400	EX	Transfer to Water & Sewer Fund
1010.0001.4999.99	-	30,620			RE	Use of Fund Balance
	-	-				
	-	-				
	-	-				
	-	-				
	-	-				
	-	-				
	-	-				
	-	-				
	-	-				
	-	-				
	-	-				
	-	-				
	-	-				
	-	-				
	-	-				

LAND SALE AGREEMENT

This Land Sale Agreement is made and entered into by and between the City of Fayetteville, Arkansas, a municipal corporation of the State of Arkansas (hereinafter "**City**" or "**Fayetteville**") and Pacific Vet Group-USA, Inc.

The City owns a parcel of real estate of approximately 37.1 acres, identified as Tract 14, on Industrial Drive in the Fayetteville Commerce District (formerly known as the Industrial Park). Approximately 13.1 acres of Tract 14 are located within the floodplain (hereinafter "**Floodplain Portion**"); the remaining 24 acres of Tract 14 are above the floodplain (hereinafter "**Development Site**").

The City of Fayetteville agrees to sell the Development Site of Tract 14 to Pacific Vet Group-USA, Inc. for THREE HUNDRED SIXTY THOUSAND DOLLARS ($360,000.00) and Pacific Vet Group-USA, Inc.'s performance of all of the terms, conditions and promises set forth later in this Agreement. The City will also grant Pacific Vet Group USA, Inc. a Right of First Refusal to acquire the Floodplain Portion of Tract 14. Pacific Vet Group-USA, Inc. agrees to pay to the City of Fayetteville THREE HUNDRED SIXTY THOUSAND DOLLARS ($360,000.00) for the Development Site of Tract 14 and for the Right of First Refusal to acquire the Floodplain Portion, and to perform all of the terms, conditions and promises set forth later in this Agreement

TERMS AND CONDITIONS

1. *Sale*

Subject to existing easements and rights of way and subject to the terms and conditions, mutual promises and covenants of this Agreement, the City of Fayetteville agrees to sell a parcel of about 24 acres (hereinafter **"Development Site")** located at Industrial Drive in the Fayetteville Commerce District by warranty deed to Pacific Vet Group-USA, Inc. for the amount of THREE HUNDRED SIXTY THOUSAND DOLLARS ($360,000.00). This Development Site shall be as shown on the plat attached at Exhibit A and as more particularly described below. Exhibit A identifies the Development Site as Parcel 'A" and the Floodplain Portion as Parcel 'B."

> Tract14, Fayetteville Industrial Park West, Fayetteville, Arkansas, as per plat on file in the office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas, containing 24 acres, more or less.

2. *Purchase*

Subject to the terms and conditions, mutual promises and covenants of this Agreement, Pacific Vet Group-USA, Inc. agrees to buy the Development Site for THREE HUNDRED SIXTY THOUSAND DOLLARS ($360,000.00) to be paid to the City of Fayetteville on or before the Closing Date as follows:

Pacific Vet Group-USA, Inc. shall present its fully executed 20 year Mortgage and Note in the amount of THREE HUNDRED SIXTY THOUSAND DOLLARS ($360,000.00) in favor of the City of Fayetteville which will provide for a twenty year amortization of this principal debt of $360,000.00 and an interest rate that shall be fixed for the first five years at the current Federal Reserve Primary Credit Rate, plus one percent (1%). This interest rate shall be annually adjusted after the first five years to apply the Federal Reserve Primary Credit Rate existing at each anniversary date, plus one percent (1%). The City agrees to subordinate its first mortgage on the property to construction and permanent financing of the improvements. Pacific Vet Group-USA, Inc. shall have the right to fully or partially repay the balance due without penalty at any time.

3. *Fulfill terms of Arkansas Economic Development Commission.*

Pacific Vet Group-USA, Inc. agrees to fulfill all terms and conditions of the Arkansas Economic Development Commission with respect to any programs for which it contracts to participate.

4. *Development Environmental Protection Goals.*

Pacific Vet Group-USA, Inc. agrees to comply with all zoning and land use requirements imposed by the City in connection with the development of the property. Zoning is currently I-2, which is permissive of Pacific Vet Group-USA's plans for the property as a site for research, development and manufacturing of animal health products.

5. *Closing Date and Place*

Closing shall occur within 60 days following the date this Agreement has been executed by both parties. The Closing shall occur at 113 West Mountain Street, Fayetteville, Arkansas in a room supplied by the City of Fayetteville.

6. *Date of Possession*

Possession of the Development Site shall be delivered to Pacific Vet Group-USA, Inc. on the Closing date free of any tenancies or other third party possessory rights.

7. *Title Insurance*

The City of Fayetteville shall order a title commitment on the Development Site, as soon practicable following the full execution of this Agreement, through a title insurance company selected by the City and acceptable to Pacific Vet Group-USA, Inc. If the report on title, binder or commitment discloses any defects in title (other than liens or encumbrances of a definite or ascertainable amount which may be paid at closing), the City shall have thirty (30) days from the date of Pacific Vet Group-USA, Inc. notice of such defects to make a good faith effort to cure such defects and to furnish a report showing the defects cured or removed. If such defects are not cured within thirty (30) days, Pacific Vet Group-USA, Inc. may terminate this agreement or may, at its election, take title subject to any such defects. The cost of the title commitment and the cost of the owner's title policy shall be borne by the City of Fayetteville. The cost of any lender's title policy and extended owner's title insurance coverage shall be borne by Pacific Vet Group-USA, Inc.

8. *Deed and Other Documents*

On the Closing date, the City of Fayetteville shall convey marketable and insurable title to the premises by general warranty deed, free and clear of all liens, restrictions, and encumbrances except as provided in this Agreement, subject only to current real estate taxes, if any (to be apportioned between the parties) and existing easements. Pacific Vet Group-USA, Inc. and the City of Fayetteville shall equally share the cost a reasonable closing fee imposed by the closing agent employed by parties provided however that Pacific Vet Group-USA, Inc. shall be responsible for any revenue stamps resulting from this transaction and all recordings fees for the deed and other documents that need to be filed.

9. *Risk of Loss*

Risk of loss as to the Development Site shall remain with the City of Fayetteville until the Closing date.

10. *Pacific Vet Group-USA, Inc.'s Due Diligence*

Pacific Vet Group-USA, Inc. may enter upon the Development Site to conduct any surveying, testing or inspection it deems necessary to ensure the Development Site will be appropriate for the construction and use for its facility. If Pacific Vet Group-USA, Inc. discovers any problems that would adversely impact its development and use of the Development Site for its facility, Pacific Vet Group-USA, Inc. shall notify the City which is granted sixty (60) days to remediate any problem. The City may also terminate this Agreement without penalty rather then remediating any problem or issue discovered by Pacific Vet Group-USA, Inc.

11. *Large Scale Development Approval*

Pacific Vet Group-USA, Inc. shall, at its sole cost and expense, prepare a Large Scale Development plat of the Development Site and obtain any and all approvals necessary for Pacific Vet Group-USA, Inc.'s intended use of the Development Site for its facility. The City shall reasonably cooperate with Pacific Vet Group-USA, Inc. in Pacific Vet Group-USA, Inc. request for development approval of its facility. Pacific Vet Group-USA, Inc. must present its development proposal through the normal City process and follow the Unified Development Code requirements.

12. *Notices*

Notices required by this Agreement shall be in writing and shall be delivered to:

Pacific Vet Group-USA, Inc.
ATTN: Bill Davies, CEO
Pacific Vet Group
2134 Creek View Drive
Fayetteville, AR 72704 or by FAX: (479) 966-4448

to:

City of Fayetteville
ATTN: Mayor's
Office 113 W.
Mountain Street
Fayetteville, AR 72701 72701-6083 or by FAX (479) 575-8257.

13. *Authority*

Each of the undersigned individuals represent and warrant that they are authorized to enter into this Agreement on behalf of their respective entities and that execution hereof will bind the entities to this Agreement.

14. *Counterparts*

This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same agreement.

15. *Facsimile*

For purposes of executing this Agreement, a facsimile signature shall be as effective an as actual signature.

16. *Applicable Law*

This Agreement shall be construed and enforced in accordance with the laws and public policies of the State of Arkansas.

17. *Survival*

The representations, warranties, and agreements of the parties contained herein shall survive the closing date.

18. *No Waivers*

The waiver by either party hereto of any condition or the breach of any term, covenant or conditions herein contained shall not be deemed to be a waiver of any other condition or of any subsequent breach of the same or of any other term, covenant or condition herein contained.

19. *Time of Essence*

Time is of the essence in this Agreement.

20. *Invalidity*

If for any reason any term or provision of this Agreement shall be declared void and unenforceable by any court of law or equity, it shall only affect such particular term or provision of this Agreement and the balance of this Agreement shall remain in full force and effect and shall be binding upon the parties hereto.

21. *Complete Agreement*

All understandings and agreements heretofore existing between the parties are merged into this Agreement that alone fully and completely expresses their agreement. This Agreement may be changed only in writing signed by both of the parties hereto and shall apply to and bind the successors and assigns of each of the parties hereto and shall not merge with the deed delivered to Pacific Vet Group-USA, Inc at closing.

Date: 6/6/14

PACIFIC VET GROUP-USA, INC.

By: ____________________
BILL DAVIES
Title: CEO

Witness:
By: ____________________

Fed. I.D. No.:
FAX No.: (479) 966-4448
Address: Pacific Vet Group-USA, Inc.
2134 Creek View Drive
Fayetteville, AR 72704

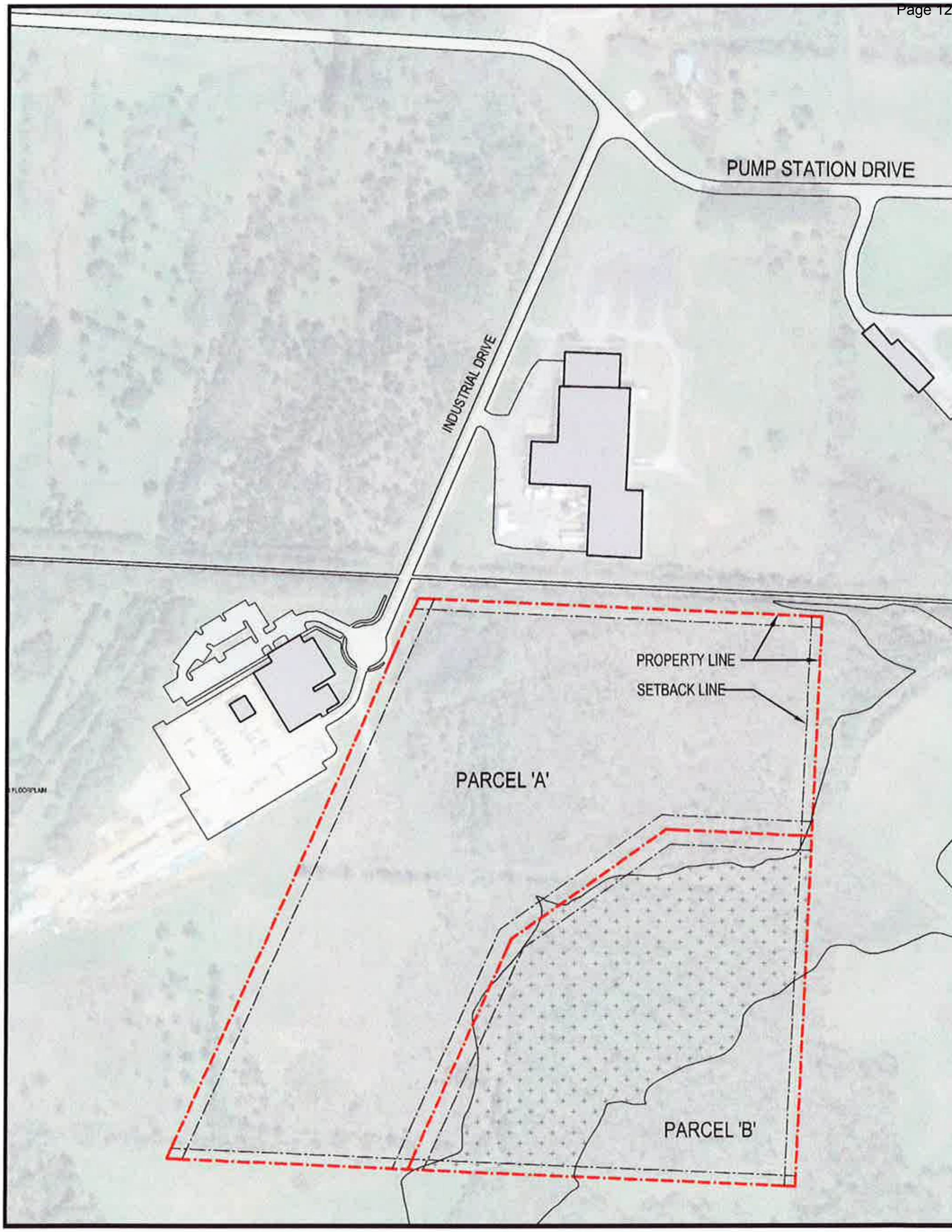
Date: ____________________

CITY OF FAYETTEVILLE, ARKANSAS

By: ____________________
LIONELD JORDAN
Mayor

ATTEST:

By: ____________________
Sondra E. Smith, City Clerk



CROMWELL

PACIFIC VET GROUP - PARCEL AREAS

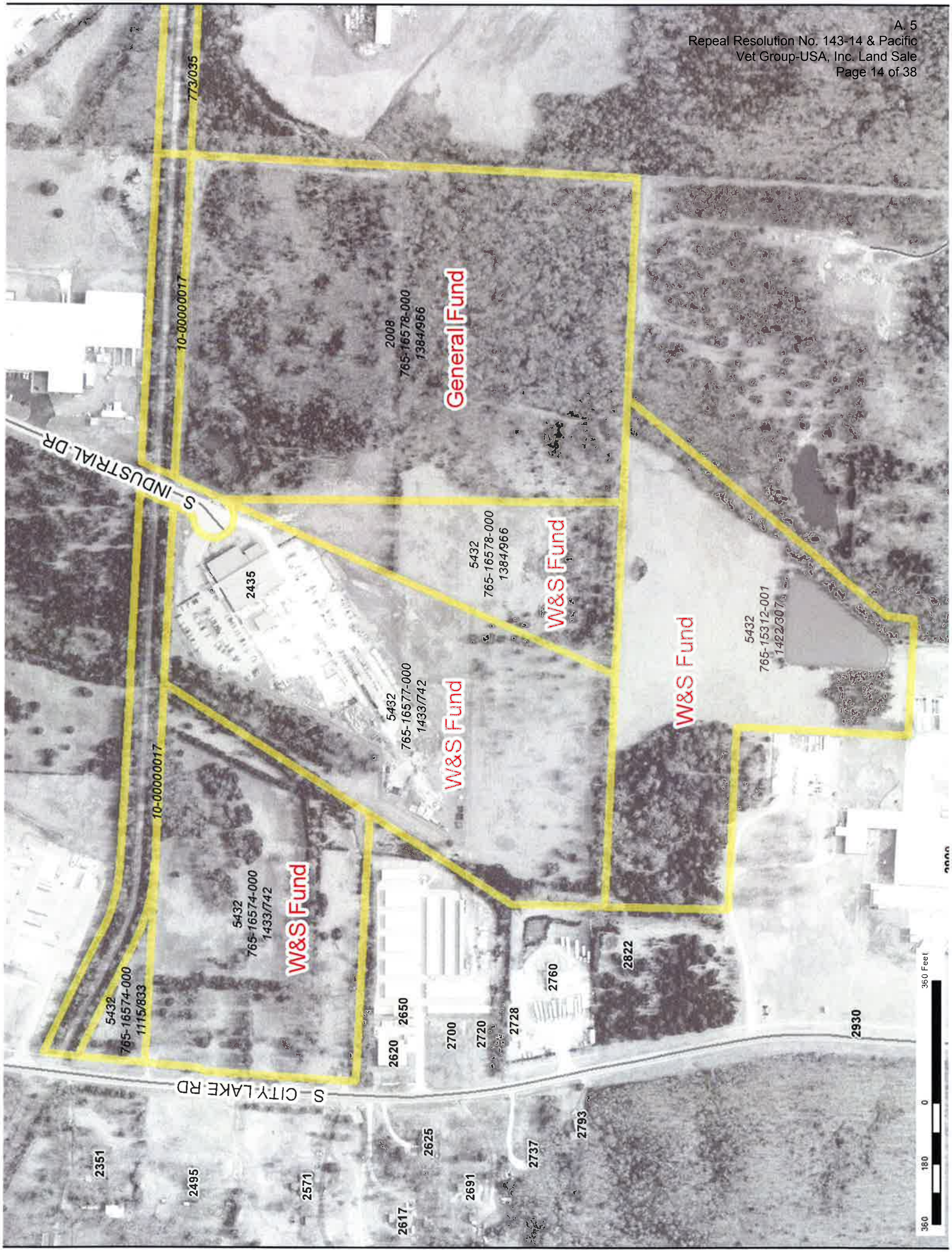
SCALE 1" = 300'-0'

MAY 22, 2014
FAYETTEVILLE, AR

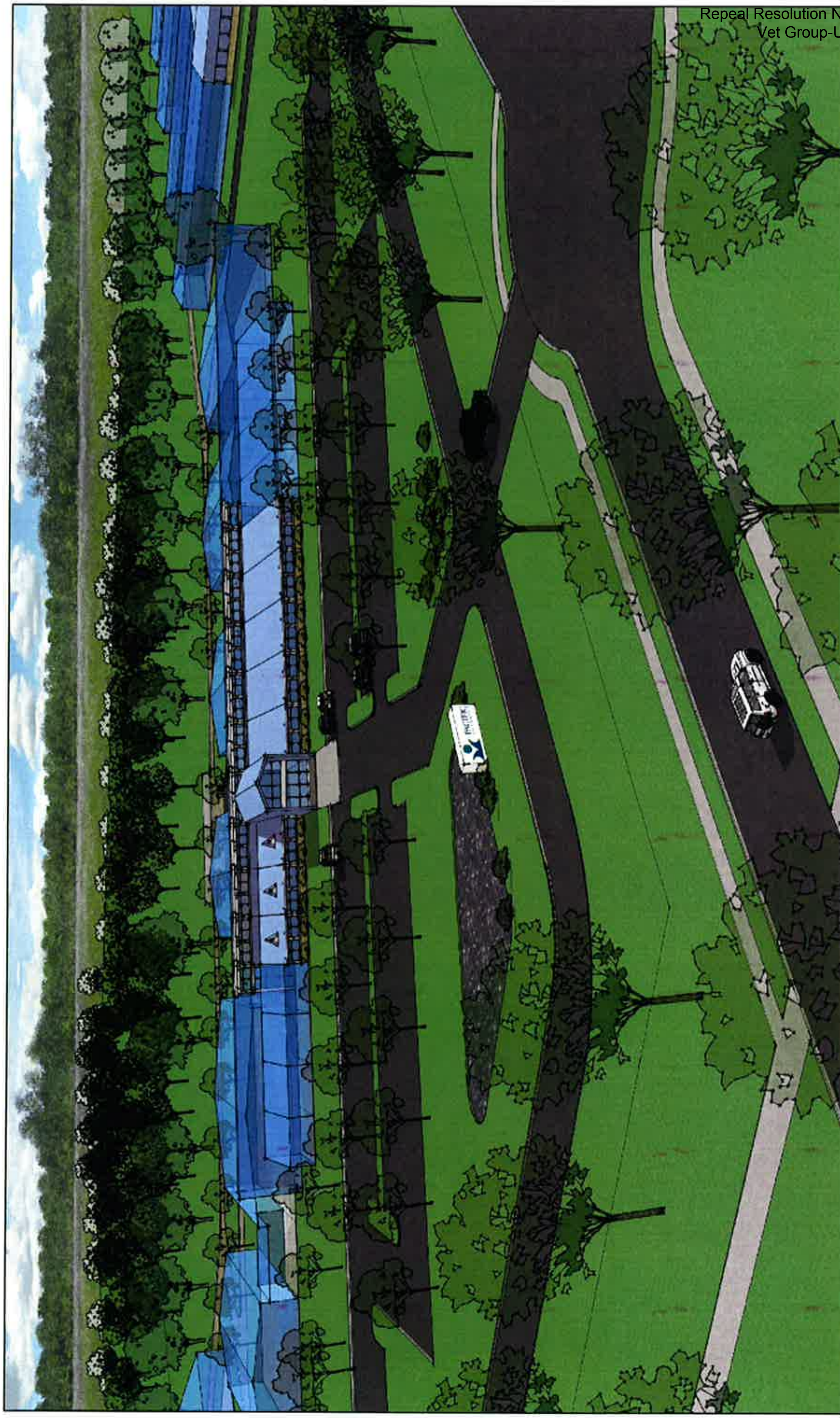
1

N


ARMSTRONG AVE
BLACK OAK RD
BORICK DR
PRIVATE 2497
2501 S ARMSTRONG AVE
1601 E PUMP STATION RD
PUMP STATION RD
2200 S INDUSTRIAL DR
INDUSTRIAL DR
2435 S INDUSTRIAL DR
2300 S CITY LAKE RD
2760 S CITY LAKE RD
2822 S CITY LAKE RD
13.1 Acres
Legend


773/035
10-00000017
General Fund
2008
765-16578-000
1384/966
S INDUSTRIAL DR
W&S Fund
5432
765-16578-000
1384/966
2435
W&S Fund
5432
765-16577-000
1433/742
W&S Fund
5432
765-15312-001
1422/307
10-00000017
W&S Fund
5432
765-16574-000
1433/742
5432
765-16574-000
1115/833
2822
2760
2728
2720
2700
2650
2620
2930
S CITY LAKE RD
2625
2737
2793
2351
2495
2571
2691
2617
360 Feet
0
180
360

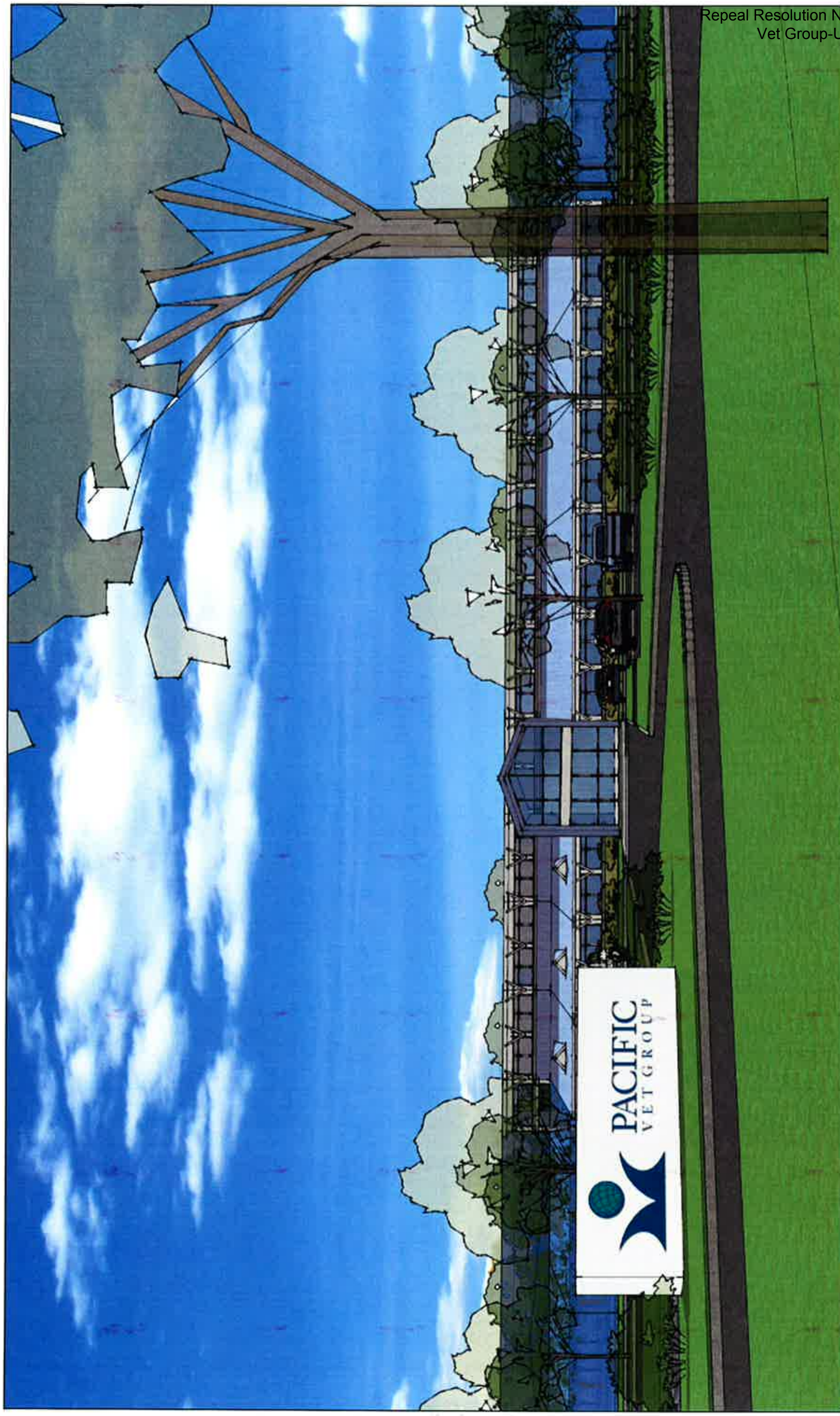

PACIFIC VET GROUP MASTERPLAN
FAYETTEVILLE, AR 3.20.2014
PHASE ONE
PHASE TWO
FUTURE PHASES
100 YEAR FLOORPLAIN
FUTURE 14,000 SF
FUTURE 14,000 SF
FUTURE 14,000 SF
FUTURE 14,000 SF
RETAINING POND
FUTURE 9,000 SF
SPORAFIL MFR.
OFFICE
WAREHOUSE
FLORAMAX MFR.
R & D
FUTURE 9,000 SF
FUTURE 9,000 SF
RETAINING POND
BROILER
BROILER
SMALL ROOM
FUTURE
FUTURE
0 38 75 150 300
MASTERPLAN WITH PHASING
SCALE: 1" = 150'-0"
100 YEAR FLOORPLAIN
CROMWELL



PVG CAMPUS DEVELOPMENT
FAYETTEVILLE, AR 5.20.14

PACIFIC VET GROUP RENDERING
SCALE: NOT TO SCALE

CROMWELL



PVG CAMPUS DEVELOPMENT
FAYETTEVILLE, AR 5.20.14

PACIFIC VET GROUP RENDERING
SCALE: NOT TO SCALE

CROMWELL

RESOLUTION NO. 143-13

A RESOLUTION TO SELL ABOUT 14.9 ACRES OF LAND IN THE INDUSTRIAL PARK TO PACIFIC VET GROUP-USA, INC. FOR $223,500.00 AND OTHER VALUABLE CONSIDERATION AND TO APPROVE A BUDGET ADJUSTMENT

WHEREAS, Pacific Vet Group-USA, Inc. needs an appropriate site to construct a research and manufacturing site for a development and commercialization of science-based probiotic products for the poultry industry; and

WHEREAS, Governor Beebe and the Arkansas Economic Development Commission has agreed to provide substantial financial assistance if Pacific Vet Group-USA, Inc. builds its facility in Fayetteville and moves or creates at least 60 jobs with an average annual salary of $65,000.00; and

WHEREAS, the City of Fayetteville needs to also assist Pacific Vet Group-USA, Inc. by selling its 14.9 acre parcel at a discount of $5,000.00 per acre from its normal selling price and to construct public infrastructure improvements totaling about $200,000.00 for this project.

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 Land Sale Agreement (attached as Exhibit A) which conveys about 14.9 acres to Pacific Vet Group-USA, Inc. for $223,500.00 plus other consideration pursuant to the terms of the Land Sale Agreement and authorizes Mayor Jordan to sign the Land Sales Agreement and the Warranty Deed for this 14.9 acre parcel.

Section 2: The City Council of the City of Fayetteville, Arkansas hereby approves the attached Budget Adjustment in the amount of $74,500.00.

PASSED and **APPROVED** this 18th day of June 2013.

APPROVED:

By: [signature]
LIONELD JORDAN, Mayor

ATTEST:

By: [signature]
SONDRA E. SMITH, City Clerk/Treasurer

CITY CLERK / TREASURER CITY OF FAYETTEVILLE ARKANSAS WASHINGTON COUNTY

LAND SALE AGREEMENT

This Land Sale Agreement is made and entered into by and between the City of Fayetteville, Arkansas, a municipal corporation of the State of Arkansas (hereinafter "City" or "Fayetteville") and Pacific Vet Group-USA, Inc.

The City of Fayetteville agrees to sell a parcel of about 14.9 acres on Morningside Drive in the Fayetteville Industrial Park to Pacific Vet Group-USA, Inc. for TWO HUNDRED TWENTY THREE THOUSAND FIVE HUNDRED DOLLARS ($223,500.00) and Inc. Pacific Vet Group-USA, Inc.'s performance of all of the terms, conditions and promises set forth later in this Agreement.

Pacific Vet Group-USA, Inc. agrees to pay to the City of Fayetteville TWO HUNDRED TWENTY THREE THOUSAND FIVE HUNDRED DOLLARS ($223,500.00) for this 14.9 acre parcel and to perform all of the terms, conditions and promises set forth later in this Agreement.

TERMS AND CONDITIONS

1. *Sale*

Subject to existing easements and rights of way and subject to the terms and conditions, mutual promises and covenants of this Agreement, the City of Fayetteville agrees to sell a parcel of about 14.9 acres (hereinafter **"Development Site"**) located at Morningside Drive in the Fayetteville Industrial Park by warranty deed to Pacific Vet Group-USA, Inc. for the amount of TWO HUNDRED TWENTY THREE THOUSAND FIVE HUNDRED DOLLARS ($223,500.00). This Development Site of about 14.9 acres shall be as shown on the plat attached at Exhibit A and as more particularly described below:

> Lot Numbered Ten (10), Fayetteville Industrial Park West, Fayetteville, Arkansas, as per plat on file in the office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas, containing 14.90 acres, more or less.

2. *Purchase*

Subject to the terms and conditions, mutual promises and covenants of this Agreement, Pacific Vet Group-USA, Inc. agrees to buy the Development Site for TWO HUNDRED TWENTY THREE THOUSAND FIVE HUNDRED DOLLARS ($223,500.00) to be paid to the City of Fayetteville on or before the Closing Date as follows:

Pacific Vet Group-USA, Inc. shall present its fully executed 20 year Mortgage and Note in the amount of TWO HUNDRED TWENTY THREE THOUSAND FIVE HUNDRED DOLLARS ($223,500.00) in favor of the City of Fayetteville which will provide for a twenty year amortization of this principal debt of $223,500.00 and an interest rate that shall be fixed for the first five years at the current Federal Reserve Primary Credit Rate, plus one percent (1%). This interest rate shall be annually adjusted after the first five years to apply the Federal Reserve

Primary Credit Rate existing at each anniversary date, plus one percent (1%). The City agrees to subordinate its first mortgage on the property to construction and permanent financing of the improvements. Pacific Vet Group-USA, Inc. shall have the right to fully or partially repay the balance due without penalty at any time.

3. *Fulfill terms of Arkansas Economic Development Commission*

Pacific Vet Group-USA, Inc. agrees to fulfill all terms and conditions of the Arkansas Economic Development Commission with respect to any programs for which it contracts to participate.

4. *Development Environmental Protection Goals*

Pacific Vet Group-USA, Inc. agrees to comply with all zoning and land use requirements imposed by the City in connection with the development of the property.

5. *Closing Date and Place*

Closing shall occur within 60 days following the date this Agreement has been executed by both parties. The Closing shall occur at 113 West Mountain Street, Fayetteville, Arkansas in a room supplied by the City of Fayetteville.

6. *Date of Possession*

Possession of the Development Site shall be delivered to Pacific Vet Group-USA, Inc. on the Closing date free of any tenancies or other third party possessory rights.

7. *Title Insurance*

The City of Fayetteville shall order a title commitment on the Development Site, as soon a practicable following the full execution of this Agreement, through a title insurance company selected by the City and acceptable to Pacific Vet Group-USA, Inc. If the report on title, binder or commitment discloses any defects in title (other than liens or encumbrances of a definite or ascertainable amount which may be paid at closing), the City shall have thirty (30) days from the date of Pacific Vet Group-USA, Inc. notice of such defects to make a good faith effort to cure such defects and to furnish a report showing the defects cured or removed. If such defects are not cured within thirty (30) days, Pacific Vet Group-USA, Inc. may terminate this agreement or may, at its election, take title subject to any such defects. The cost of the title commitment and the cost of the owner's title policy shall be borne by the City of Fayetteville. The cost of any lender's title policy and extended owner's title insurance coverage shall be borne by Pacific Vet Group-USA, Inc.

8. *Deed and Other Documents*

On the Closing date, the City of Fayetteville shall convey marketable and insurable title to the premises by general warranty deed, free and clear of all liens, restrictions, and encumbrances except as provided in this Agreement, subject only to current real estate taxes, if any (to be apportioned between the parties) and existing easements. Pacific Vet Group-USA, Inc. and the City of Fayetteville shall equally share the cost a reasonable closing fee imposed by the closing agent employed by parties provided however that Pacific Vet Group-USA, Inc. shall be responsible for any revenue stamps resulting from this transaction and all recordings fees for the deed and other documents that need to be filed.

9. *Risk of Loss*

Risk of loss as to the Development Site shall remain with the City of Fayetteville until the Closing date.

10. ***Pacific Vet Group-USA, Inc.'s Due Diligence***

Pacific Vet Group-USA, Inc. may enter upon the Development Site to conduct any surveying, testing or inspection it deems necessary to ensure the Development Site will be appropriate for the construction and use for its facility. If Pacific Vet Group-USA, Inc. discovers any problems that would adversely impact its development and use of the Development Site for its facility, Pacific Vet Group-USA, Inc. shall notify the City which is granted sixty (60) days to remediate any problem. The City may also terminate this Agreement without penalty rather then remediating any problem or issue discovered by Pacific Vet Group-USA, Inc.

11. *Large Scale Development Approval*

Pacific Vet Group-USA, Inc. shall, at its sole cost and expense, prepare a Large Scale Development plat of the Development Site and obtain any and all approvals necessary for Pacific Vet Group-USA, Inc.'s intended use of the Development Site for its facility. The City shall reasonably cooperate with Pacific Vet Group-USA, Inc. in Pacific Vet Group-USA, Inc. request for development approval of its facility. Pacific Vet Group-USA, Inc. must present its development proposal through the normal City process and follow the Unified Development Code requirements.

12. *Notices*

Notices required by this Agreement shall be in writing and shall be delivered to:

Pacific Vet Group-USA, Inc.
ATTN: Bill Davies, CEO
Pacific Vet Group
2134 Creek View Drive
Fayetteville, AR 72704 or by FAX: (479) 966-4448
to:

City of Fayetteville
ATTN: Mayor's Office
113 W. Mountain Street
Fayetteville, AR 72701 72701-6083 or by FAX (479) 575-8257.

13. ***Authority***

Each of the undersigned individuals represent and warrant that they are authorized to enter into this Agreement on behalf of their respective entities and that execution hereof will bind the entities to this Agreement.

14. ***Counterparts***

This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same agreement.

15. ***Facsimile***

For purposes of executing this Agreement, a facsimile signature shall be as effective an as actual signature.

16. ***Applicable Law***

This Agreement shall be construed and enforced in accordance with the laws and public policies of the State of Arkansas.

17. ***Survival***

The representations, warranties, and agreements of the parties contained herein shall survive the closing date.

18. ***No Waivers***

The waiver by either party hereto of any condition or the breach of any term, covenant or conditions herein contained shall not be deemed to be a waiver of any other condition or of any subsequent breach of the same or of any other term, covenant or condition herein contained.

19. ***Time of Essence***

Time is of the essence in this Agreement.

20. ***Invalidity***

If for any reason any term or provision of this Agreement shall be declared void and unenforceable by any court of law or equity, it shall only affect such particular term or provision of this Agreement and the balance of this Agreement shall remain in full force and effect and shall be binding upon the parties hereto.

21. ***Complete Agreement***

All understandings and agreements heretofore existing between the parties are merged into this Agreement that alone fully and completely expresses their agreement. This Agreement may be changed only in writing signed by both of the parties hereto and shall apply to and bind the successors and assigns of each of the parties hereto and shall not merge with the deed delivered to Pacific Vet Group-USA, Inc at closing.

Date: 6/19/13

PACIFIC VET GROUP-USA, INC.
ARKANSAS

By: ____________
BILL DAVIES
CEO

Witness:

By: ____________

Fed. I.D. No.: 26-252154b
FAX No.: (479) 966-4448
Address: Pacific Vet Group-USA, Inc.
2134 Creek View Drive
Fayetteville, AR 72704

Date: 6/27/13

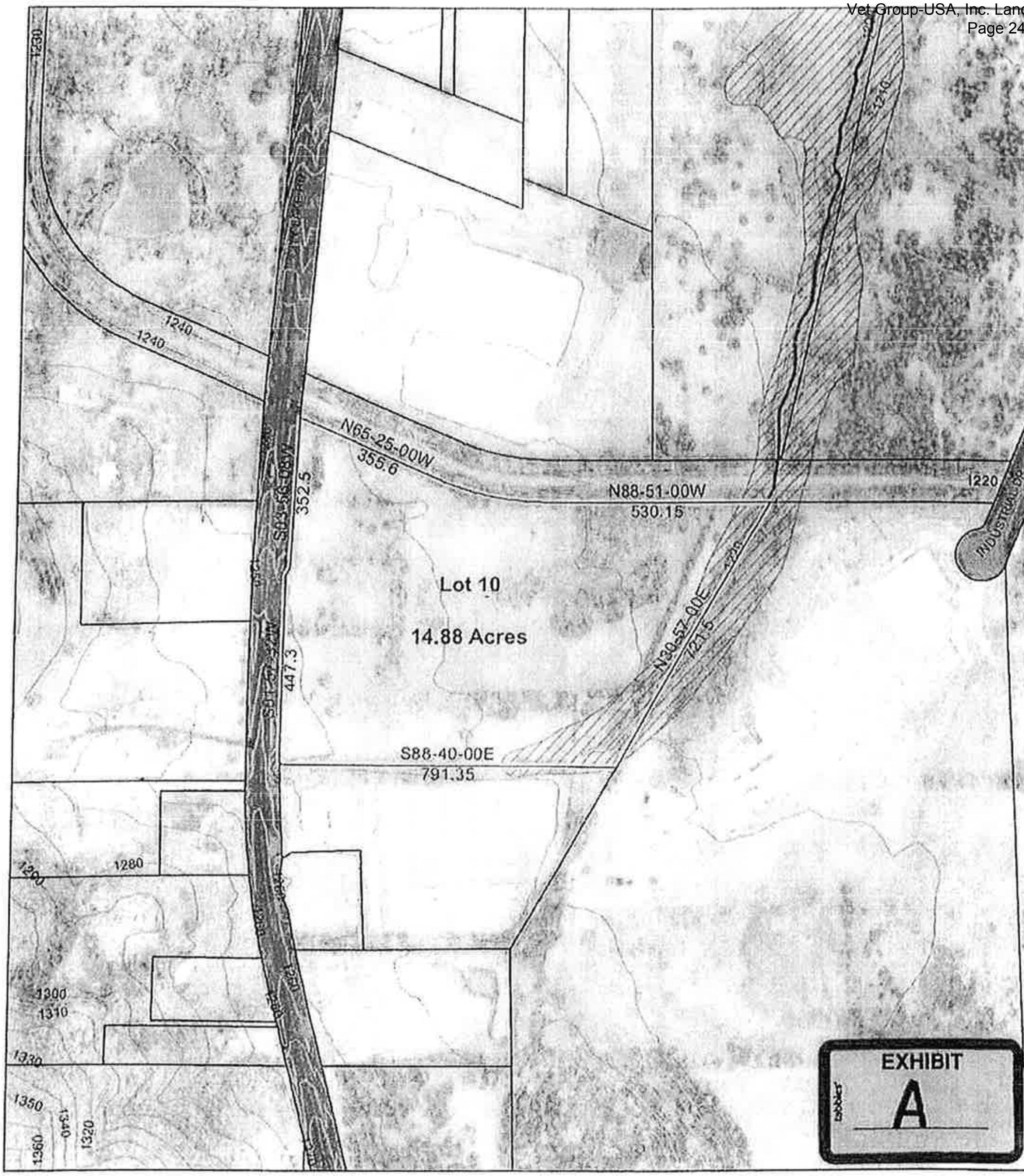
CITY OF FAYETTEVILLE,

By: ____________
LIONELD JORDAN
Mayor

Attest:

By: ____________
Sondra E. Smith, City Clerk

CITY CLERK / TREASURER
CITY OF
FAYETTEVILLE
ARKANSAS
WASHINGTON COUNTY



Lot 10
Industrial Park West

Streams
Contours 2'
Contours 10'
Lot 10
Parcel Boundary
Flood Cartographic 100Year
ROW

N W E S

1 inch = 300 feet

Fayetteville
ARKANSAS

CITY COUNCIL AGENDA MEMO

MEETING DATE OF JUNE 18, 2013

THE CITY OF FAYETTEVILLE, ARKANSAS

www.accessfayetteville.org

To: Fayetteville City Council

Thru: Mayor Lioneld Jordan
Don Marr, Chief of Staff

From: David Jurgens, Utilities Director

Date: May 31, 2013

Subject: Sale of 14.9 Acres of Land in the Industrial Park to Pacific Vet Group-USA, Inc.

RECOMMENDATION

City Staff recommends approving a contract with Pacific Vet Group-USA (PVG) for $223,500.00 for the sale of approximately 14.9 acres of land owned by the City of Fayetteville water and sewer utility on Morningside Drive in the Industrial Park.

BACKGROUND

The City of Fayetteville, the Arkansas Economic Development Commission (AEDC), and the Arkansas Governor have been approached by PVG to find a site suitable for construction of a research and manufacturing facility into which PVG plans to expand. PVG is a privately held bioscience company specializing in the development and commercialization of science-based probiotic products for the poultry industry. Currently headquartered in Fayetteville, PVG's core technology is licensed from the University of Arkansas, where it was developed in the laboratories of Dr. Billy M. Hargis, a leading poultry researcher. PVG has stated its intent to construct and occupy a new facility at the Morningside Drive site that will move or create a total of at least 60 jobs with an average annual salary of $65,000 within five years to this location. PVG has further stated its intent that construction of the facility will begin within 12 months of acceptance of this offer.

DISCUSSION

The attached land sale agreement has been reached through negotiations between the City, the Chamber of Commerce, the AEDC and PVG. The proposal is to sell the property to PVG at a reduced rate of $15,000 per acre. In order for this project to be eligible for AEDC funding support, the City must contribute to the economic development in some way. With the current proposal, the City's contribution is in the form of the discounted price per acre (the established asking price has been $20,000, which is what the Water/Sewer fund paid the general fund when the land was transferred in April, 2003) as well as assistance with on-site development including possible work on storm drainage, pavement, street work, utility work, and sidewalk work, all within the public right of way. The value of this work is estimated at $200,000. Payment for the cost of the land will be amortized over 20 years with the first 5 years fixed at an interest rate of the Federal Reserve Rate plus one percent (1%). At the end of the 5th year, the interest rate will be modified annually based on the Federal Reserve Rate plus one percent (1%) on each anniversary date.

City Code §34.27 establishes specific requirements regarding public notice of the sale of real property. All Code requirements have been met with the related City Council resolution passed June 4, 2013.

BUDGET IMPACT

$223,500 in sale revenue will be paid to the Water/Sewer fund. A budget adjustment approved June 4, 2013 approved transferring $74,500 from the general fund to the Water/Sewer fund to make that fund whole from the land sale.

Attachments:
- Sale Agreement
- Location Map (wide area)
- Detail Map
- Tentative Site Layout
- AEDC Letter to PVG
- City Attorney Memo of May 9, 2013

City of Fayetteville, Arkansas
Budget Adjustment Form

Budget Year	Division: Citywide Department: Citywide	Request Date	Adjustment Number
2013		5/13/2013	

BUDGET ADJUSTMENT DESCRIPTION / JUSTIFICATION

$74,500 in the Transfer to Water & Sewer account to reimburse the Water & Sewer Fund for market value of the sale of 14.9 acres of Industrial Park Property.

Paul A. Becker 5-22-2013
Division Head Date

5-22-2013
Budget Director Date

Paul A. Becker 5-23-2013
Department Director Date

5-23-13
~~Finance Director~~ Date

Chief of Staff Date

5/23/13
Mayor Date

Prepared By: Kevin Springer
Springer, Kevin

Reference:

Budget & Research Use Only

Type: A B C D E P

General Ledger Date

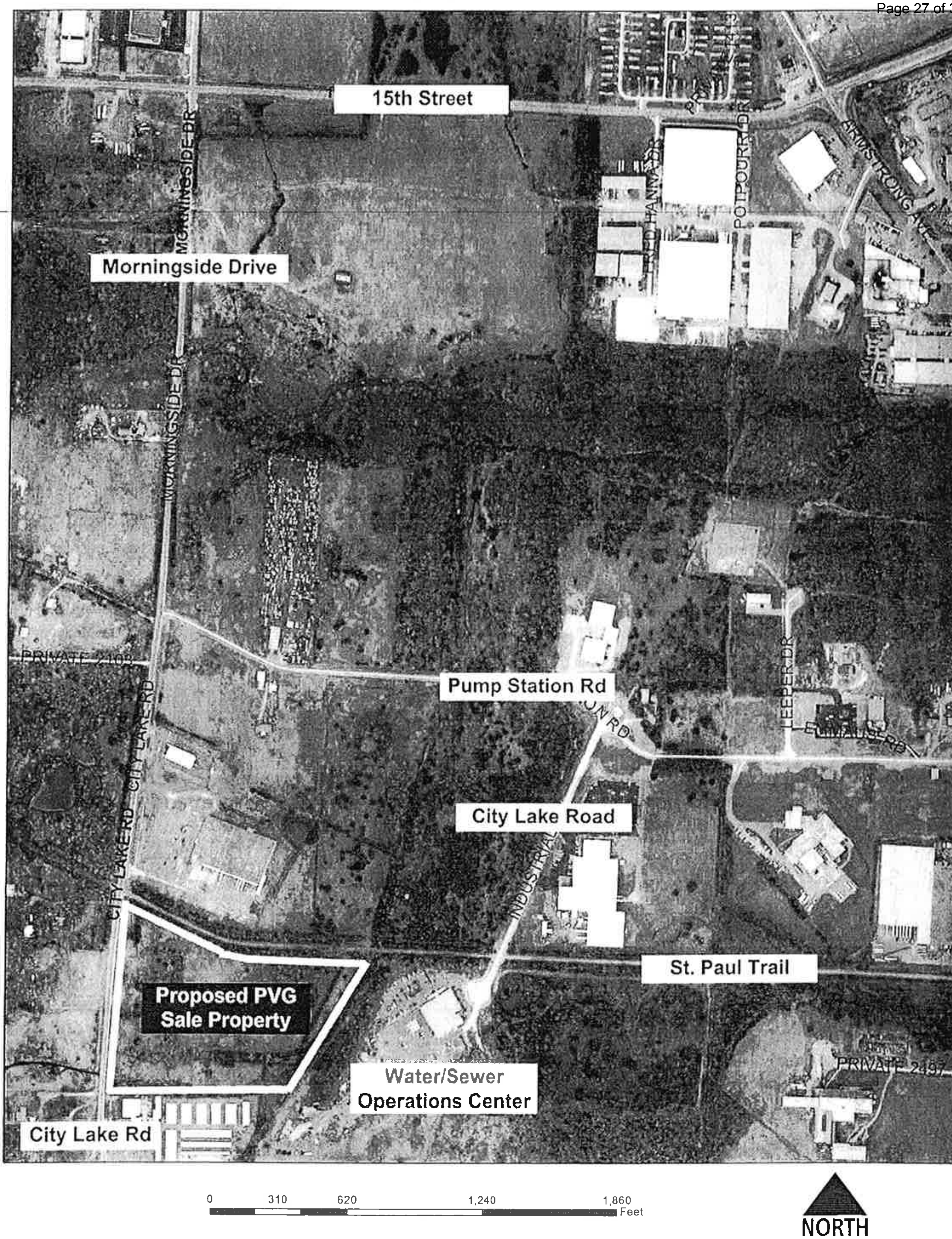
Posted to General Ledger
Initial Date

Checked / Verified
Initial Date

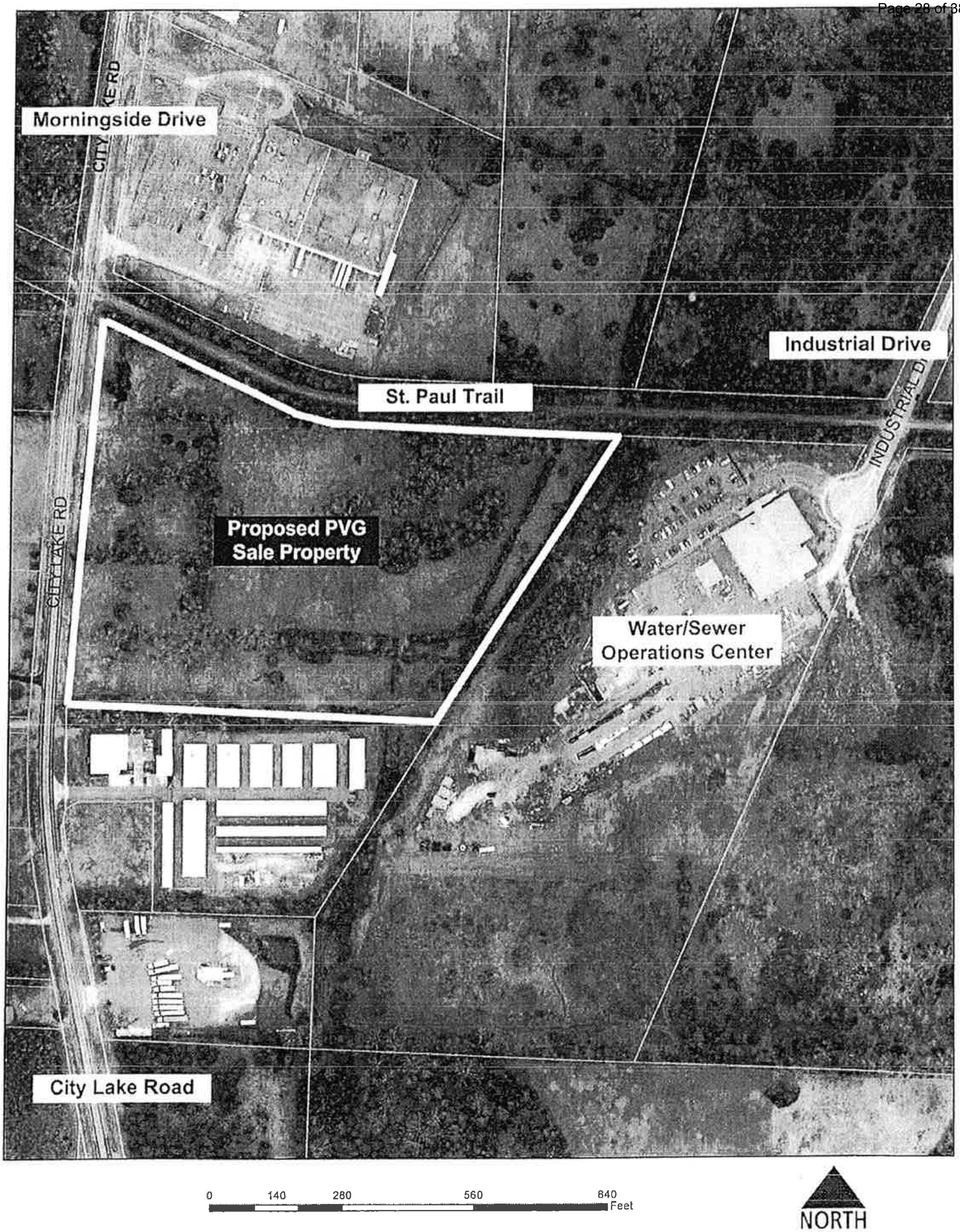
TOTAL BUDGET ADJUSTMENT 74,500 74,500

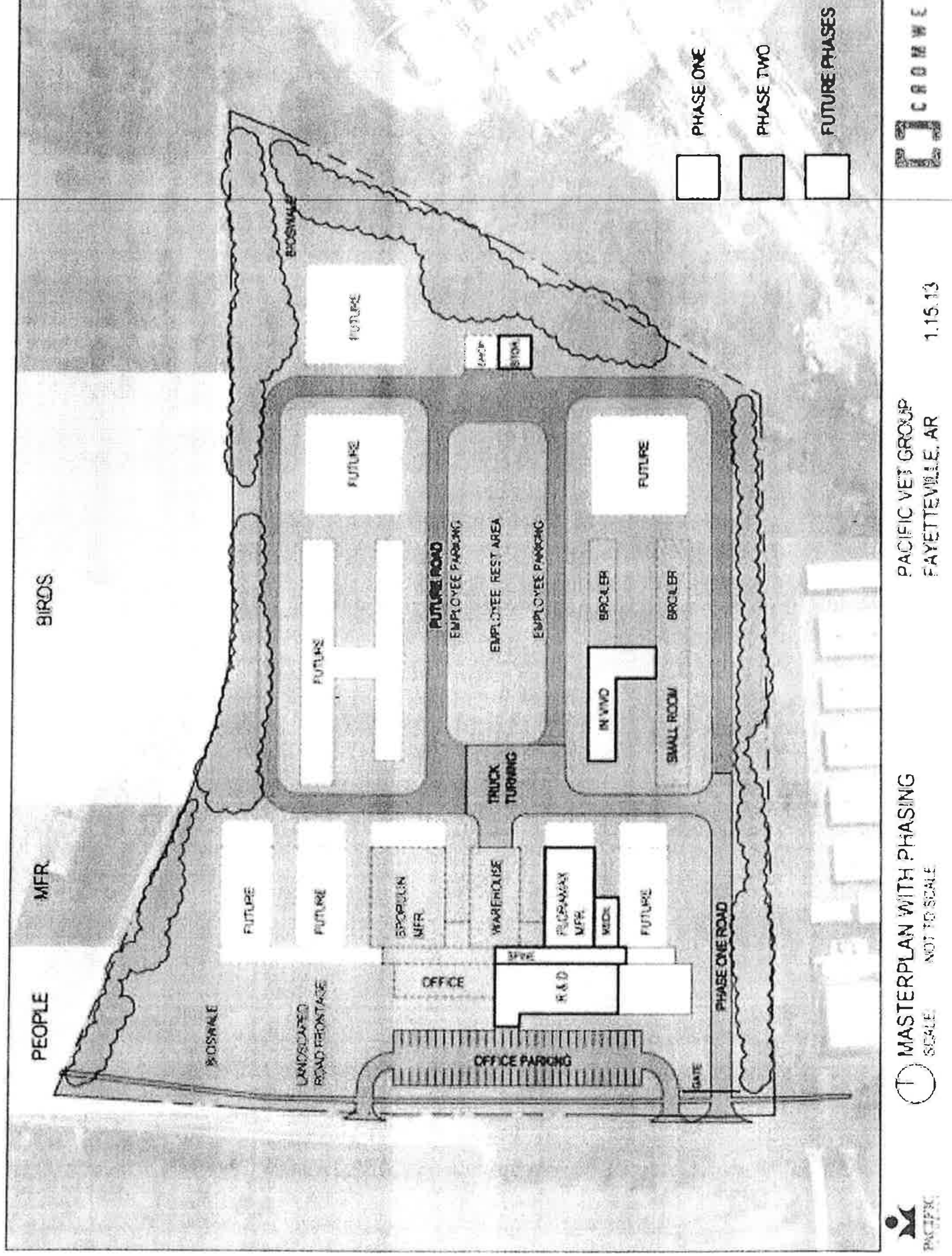
Account Name	Account Number	Increase / (Decrease) Expense	Increase / (Decrease) Revenue	Project.Sub Number
Transfer to Water & Sewer	1010.6600.7602.40	74,500	-	57018 . 5400
Use of fund balance	1010.0001.4999.99		74,500	.
				.
				.

PVG Property Sale in Industrial Park



PVG Property Sale in Industrial Park




PEOPLE
MFR
BIRDS
BIOSWALE
LANDSCAPED ROAD FRONTAGE
OFFICE PARKING
OFFICE
R&D
FUTURE
SPORULIN MFR
WAREHOUSE
TRUCK TURNING
FUTURE ROAD
EMPLOYEE PARKING
EMPLOYEE REST AREA
IN VIVO
SMALL ROOM
BROILER
PHASE ONE ROAD
GATE
PHASE ONE
PHASE TWO
FUTURE PHASES
MASTERPLAN WITH PHASING
SCALE NOT TO SCALE
PACIFIC VET GROUP
FAYETTEVILLE, AR
1.15.13

ARKANSAS
A natural for business

Mike Beebe Grant Tennille

February 11, 2013

Bill Davies
CEO
Pacific Vet Group
2134 Creek View Drive
Fayetteville, AR 72704

Dear Mr. Davies:

Recognizing Pacific Vet Group's contribution to our state and community, the Arkansas Economic Development Commission (AEDC) and the City of Fayetteville are pleased to submit the attached incentives proposal for your consideration.

Together, the state and city are committed to mitigating many of your site-related costs with a package valued over $1M. The AEDC will commit up to $570,000 in the form of an upfront cash grant to cover erosion control, earthwork, a detention basin with outfall structure, and asphalt pavement at the site. The City, through in-kind services, will assist with constructing culverts and storm drainage, entry drives, curb and gutters, and sidewalks around the site (an estimated value of $200,000). They have also committed to a reducing the cost of the land by $5,000 an acre (a $75,000 savings for 15 acres).

In addition the state can offer our Advantage Arkansas income tax credit (valued at $163,000) and our Tax Back sales and use tax refund (value will depend on total investment in taxable building materials, but could be as much as $1.2M for a $15M project).

We are excited about your company's success in Arkansas and hope to see your footprint grow in Fayetteville. Please feel free to contact me directly at (501) 682-1260 or via email at SClark@Arkansasedc.com if there is any additional information you need.

Sincerely,

Sarah K Clark

Sarah Clark
Project Manager

ARKANSAS
A natural for business

CONFIDENTIAL

**ARKANSAS ECONOMIC DEVELOPMENT COMMISSION (AEDC)
INCENTIVES PROPOSAL
for
Pacific Vet Group**

February 11, 2012

All incentives offered are contingent upon **Pacific Vet Group** locating is new facility in Fayetteville (Washington County), Arkansas. Incentives are based on the following project assumptions. Any change in the project criteria will require a recalculation of the incentives.

- 47 new full-time employees in Fayetteville
    - Year 1: 18
    - Year 2: 13
    - Year 3: 4
    - Year 4: 10
    - Year 5: 2
- Average annual wage of $66,000 ($32/hour)
- Investment (estimate) of $5M in Phase I; $12-15M in Phase II

Advantage Arkansas Program

The Advantage Arkansas Program is a job tax credit program for qualifying new and expanding companies. In Washington County, the credits earned will be equal to 1% of the net, new payroll for a period of five years with a minimum annual payroll of $125,000. In addition, the average hourly wage of the new payroll generated must average $10.46 per hour or greater. The company may apply the credit to their state income tax liability, not to exceed 50% of the total income tax liability for a reporting period.

Employees must be taxpayers of Arkansas to qualify for the credit. The income tax credit begins in the year in which the new employees are hired. Any unused portion of the credit may be applied against the income tax for the succeeding nine years.

Based on payroll information provided by the company the income tax credits are calculated as follows:

Annual Payroll of New Employees x Appropriate Percentage = Annual Financial Incentive

Year	Jobs	Annual Payroll Increase	Estimated Tax Credit
Year 1	18	$ 1,198,080*	$ 11,981
Year 2	31	$ 2,063,360	$ 20,634
Year 3	35	$ 2,329,600	$ 23,296
Year 4	45	$ 2,995,200	$ 29,952
Year 5	47	$ 3,128,320	$ 31,283
	Total Estimated Benefits		**$ 117,146**

*18 new jobs * $32/hour x 2,080 hours

Tax Back Program

The Tax Back Program grants a refund of state and local sales and use taxes paid on the purchases of the material used in the construction of a building or buildings or any addition, modernization or improvement to a new or expanding eligible business. A sales and use tax refund is also allowed for the purchases of taxable machinery or equipment associated with the building or project.

Eligibility Requirements:

- Minimum investment of one-hundred thousand dollars ($100,000).
- The business must sign an Advantage Arkansas agreement within twenty-four (24) months of signing the Tax Back agreement.

A refund shall not be authorized for:

- Routine operating expenditures;
- The purchase of replacements of items previously purchased as part of a project unless the items previously purchased will not enable the project to function as originally intended;
- Licensed motor vehicles; or
- Expenditures for routine repair and maintenance that do not result in new construction or expansion.

To qualify for the Tax Back Program, the company must submit a completed application accompanied by a local endorsement resolution from the city, county or both which authorizes the refund of its local taxes to the eligible company. The refund will not include the sales tax dedicated to the Educational Adequacy Fund and the Conservation Tax Fund. These two exceptions reduce the state refund by one percent (1%). Currently state sales tax rate is six percent (6%) therefore the refund of state taxes will be based upon five percent (5%) of the eligible taxable purchases. Currently the sales tax rate in Fayetteville, Arkansas (including Washington County) is 3.25% of the eligible taxable purchases and the refund of local taxes will be based on that rate.

If the company were to invest $15M in elegible, taxable items, , the sales and use tax refund is estimated as follows:

Eligible Expenditures	*x*	*Total Sales Tax (State & Local)*	=	*Refund Amount*
$15,000,000	**x**	**8.25% (5% + 3.25%)**	=	**$1,237,500**

Infrastructure

Based on the information provided by Pacific Vet Group, the Arkansas Economic Development Commission is willing to commit **$570,000 in Governor's Quick Action Closing Funds** to be used towards erosion control, earthwork, a detention basin with outfall structure, and asphalt pavement at the company's potential new site in Fayetteville, AR.

To receive reimbursement for eligible expenditures, the company will be required to submit invoices to the Arkansas Economic Development Commission. This funding is contingent upon the creation of at least 47 full-time jobs within 5 years of the signing the grant agreement. AEDC will require Pacific Vet Group to sign a grant agreement and a grant reimbursement agreement that will have claw-backs in the event the terms of the agreement are not met.

Fayetteville
Chamber of Commerce

February 7, 2013

Sarah Clark
Project Manager, Business Development
Arkansas Economic Development Commission
900 West Capitol, Suite 400
Little Rock, AR 72201
501-682-1260 (office)
501-580-0274 (cell)

Dear Sarah:

The philosophy of the City of Fayetteville and its citizenry has been one of building a quality of place for our community. As such, Mayor Jordan, the City Council, and the Fayetteville Chamber place the highest priority in investing in the infrastructure within the city. They look at infrastructure such as excellent roads, schools, and amenities. We believe that by investing in infrastructure, Fayetteville will become a desired location for businesses to prosper and for residents to call home. The City of Fayetteville has invested in its infrastructure in the past, current, and in the future.

1) Citizens of Fayetteville approved a tax increase in 2011 to raise funds to expand and renovate its Fayetteville High School. This is a $94 million project divided in 2 phases. Phase 1 is already completed and Phase 2 will be completed by 2014. Phase 1 included an 850-seat performing arts center; a 2,200-seat sports arena with two practice gyms and locker rooms; and classrooms for drama, band, orchestra, and choir. Also included is a student cafeteria that seats 600 students.

2) Citizens of Fayetteville, together with the rest of the state, approved a half cent sales tax in November, 2012 (for the next 10 years), to raise funds for infrastructure. Specifically, northwest Arkansas where Fayetteville is located, will see Interstate 540 expand from 4- to 6-lanes from Fayetteville to Bella Vista. This year, five out of 17, I-540 projects will get underway; two in Benton County and three in Washington County. All 17 projects will start in the next 5 years and all are scheduled to be finished in the next 10 years. In addition to these highway projects, the City of Fayetteville will enjoy $12 million of turn back monies from this tax to improve city streets and roads over the next 10 years.

3) Within the Fayetteville Commerce District where the site is located, the City of Fayetteville has made improvements to it since last year. It added 29 public street lights to improve night lighting there. This year, the City will be building and connecting sidewalks in the district and putting up additional way-finding signs to help truckers/visitors find their way to the district. It is also improving the turn points on

ACCREDITED

Armstrong and Morningside with 15th Street. Road improvements are currently underway on Hwy 265 and Cato Springs Road to help with accessing to interstate highways. Fifteenth Street and Morningside/City Lake Road are in the work plans for improvement as well. This improvement will cost the City more than $100,000.

1) Apart from schools and roads, the City of Fayetteville is known for its trails, parks, arts, entertainment, and cultural offerings, thus making it a desired location for families and workers to live and play. The City is able to recruit and retain local and outside talents. The City builds about 3 miles of trail each year. Beginning this year, it will increase spending on building sidewalks within the city, starting in subdivisions located close by to schools.

2) The University of Arkansas is a great asset to companies like PVG for its research and development capabilities and the workforce it produces. The U of A has seen an increase of student enrollment of 1,500 students a year for the past three years. This trend is expected to continue for the next few more years. This growth showed a desire from students to seek training at this facility over others in the nation. The university, since 2001, has invested more than $1 billion in capital expenditures. Currently, it has $300 million worth of projects happening on campus with many more in different stages of planning.

3) As a result of all these work, the Fayetteville MSA has enjoyed a net positive population growth and an unemployment rate below that of the nation. The Cost of Living Index for 2012 just came out—Fayetteville MSA is ranked #6 as the least expensive MSA amongst all the MSAs under study (307). Fayetteville MSA is the only MSA from Arkansas that made that list and there was no MSA from Missouri that showed up in the top 10 ranking. This is a publication by the Council of Community and Economic Research.

We consider Pacific Vet Group (PVG) a home grown company because of its UA origins and we are excited and proud of its growth and plans for the future. We are confident that Pacific Vet Group will agree that its expansion should be back in Fayetteville where PVG will have access to intrinsic resources that it may not be able to find elsewhere. Fayetteville wishes to be PVG's partner to help it grow. As such, the City will work with PVG to expedite their expansion process and put its project on fast track. The Fayetteville Chamber, being the economic developer for the city, will be the contact for this project.

In addition, the City is pleased to offer a price reduction of $5,000 off the asking price of $20,000 per acre for the 14.9 acres of land owned by the City in the Fayetteville Commerce District. This represents a $74,500 direct benefit to PVG. Since this is a green site, the City will assist with on-site development in terms of public right of way and to facilitate access in the areas of culverts & storm drainage, concrete pavements such as entry drives, asphalt pavement, curbs & gutters, and sidewalk. City assistance will be limited to public areas only as regulations do not permit city to work on private property.

This offer is construed based on PVG's expansion plan presented to us. PVG's plan calls for moving existing and new jobs to a total of at least 60 jobs with an average annual salary of $65,000 within 5 years and that construction shall begin within 12 month upon acceptance of this offer. Furthermore, PVG will move into the new location once construction is completed.

We look forward to working with you and PVG on this exciting project.

Yours truly,

Steve Clark
President & CEO

Fayetteville ARKANSAS

Departmental Correspondence

www.accessfayetteville.org

LEGAL DEPARTMENT

Kit Williams
City Attorney

Jason B. Kelley
Assistant City Attorney

TO: **Mayor Jordan**
Don Marr, Chief of Staff
Paul Becker, Finance Director
David Jurgens, Utilities Director

FROM: **Kit Williams, City Attorney**

DATE: **May 9, 2013**

RE: Sale of Water and Sewer land in Industrial Park to new industry

I believe that the City of Fayetteville can sell the necessary acreage to the proposed new industry for $15,000.00 per acre as the City's required (by the Arkansas Economic Development Commission) support for this economic development project. Although this is $5,000.00 less than the normal asking price for our other available Industrial Park property, the long term economic benefits to our City, Citizens and existing businesses from this project with its quality, high paying jobs justifies this proposed reduced price offering. I do recommend that the Water and Sewer Fund that currently owns this land be compensated for this offer to sell at what might be below the value of the land (in a trade for other city land) it acquired about a decade ago.

We need to begin **immediately** the Public Notification process required by Section 34.27 of the Fayetteville Code (copy attached) for the sale of City property. We simply need to mail notices to adjoining landowners, post signs on the property and publish a notice in the paper at least 15 days before the City Council meeting in which a Resolution for the sale is considered by the City Council. This is the same process used in the sale of the 2 acres of the old Tyson factory site. Jeremy Pate did that notification and therefore would be very "up to speed" on what is needed.

Added at Agenda Session 6-10-14

City of Fayetteville Item Review Form

2014-0258

Legistar File Number

6/17/14

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

Chris Brown	Development Services
Submitted By	**Department**

Action Required:

A Resolution Approving a Settlement with Dale and Martha Benedict for Purchase of Right of Way for the Van Asche Drive Project.

Does this item have a cost? Yes

$5,000.00	$1,421,819.00	Van Asche (Garland to Gregg)
Cost of this request	Category or Project Budget	Program or Project Name
4520.9555.5805.00		Street Improvements
Account Number	Funds Used to Date	Program or Project Category
06035.2500	$1,416,819.00	Street Sales Tax 2013
Project Number	Remaining Balance	Fund Name

Budgeted Item? Yes **Budget Adjustment Attached?**

V20130812

ENTERED 6/10/14 DM

ENTERED 6/10/14 PH

Previous Ordinance or Resolution # ____

Original Contract Number: ____

Comments:

6/10/14

Paul A. Becker 6-10-2014

6-10-14

CITY OF
Fayetteville
ARKANSAS

CITY COUNCIL AGENDA MEMO

MEETING OF JUNE 17, 2014

TO: Mayor and City Council

THRU: Don Marr, Chief of Staff
Jeremy Pate, Director of Development Services
Chris Brown, City Engineer

FROM: Matt Casey, Engineering Design Manager MC

DATE: June 9, 2014

SUBJECT: Approval of a Settlement with Dale and Martha Benedict for Purchase of Right of Way for the Van Asche Drive Project

---

RECOMMENDATION:
Staff recommends approval of a Resolution authorizing the settlement of the Benedict Condemnation Case.

BACKGROUND:
Van Asche Drive is currently under construction from Gregg Ave. to Garland Ave. as a part of the Transportation Improvement Bond Program. Right of way acquisition was required from many of the property owners along the route. In order to move forward with the project to bidding and construction, condemnation action on some of the properties was approved by the City Council on November 19, 2013. The City Attorney filed condemnation suits for these properties, and received Orders of Possession from the Circuit Court so that the project could move forward.

DISCUSSION:
In the case of the Benedict's property, $3,400.00, representing the City's appraised value for the right of way was deposited with the Court at the time of the filing. Since that time, staff has corresponded with the Benedict's attorney, and they have agreed to accept and additional $1,600.00 to the appraised value of $3,400.00 for the right of way and drainage easement. The total amount of compensation would be $5,000.00. In addition, the City has agreed to construct a driveway to this property that will replace the existing driveway that will be removed with the intersection construction.

This item is being walked on to the agenda at the recommendation of the City Attorney in order to quickly act on the settlement offer.

BUDGET/STAFF IMPACT:
The payment for land acquisition will be made from the project budget allocated for the Van Asche Drive project, which is funded by the Transportation Bond Fund.

Attachments:
Driveway Exhibit

Mailing Address:
113 W. Mountain Street
Fayetteville, AR 72701

OFFICE OF THE
CITY ATTORNEY

DEPARTMENTAL CORRESPONDENCE

Kit Williams
City Attorney

Blake Pennington
Assistant City Attorney

Patti Mulford
Paralegal

TO: **Mayor Jordan**
City Council

FROM: **Blake Pennington**, Assistant City Attorney

DATE: **June 10, 2014**

RE: **Approval of Settlement with Dale and Martha Benedict for Purchase of Right of Way for the Van Asche Drive Construction Project**

We join City Engineer Chris Brown's request to walk the proposed settlement onto the agenda for the June 17, 2014 City Council meeting. Pursuant to City Council Rules of Order and Procedure #A.7, I am providing an explanation for our request for expedited consideration by the Council.

Our office has reached a tentative settlement with the Benedicts and we now ask for Council approval to finalize the agreement. Our office would prefer to conclude all litigation as quickly as possible once the parties have reached a tentative agreement.

The proposed settlement agreement provides for payment of $5,000.00, which is $1,400.00 more than we had originally deposited with the Court. We believe this is a reasonable amount of compensation for the property that is being taken for this project.

The settlement also authorizes the City to relocate an existing driveway entrance on the north side of the Benedicts' property away from the intersection of Highway 112 and Van Asche. Engineering has determined that the current entrance is too close to the intersection of Highway 112 and Van Asche and needs to be closed for safety reasons. We want to ensure that the Benedicts continue to have full access to their property and the Benedicts have agreed to allow us to move the entrance further to the west.

We strongly recommend City Council approval of this proposed settlement offer.

RESOLUTION NO. _____

A RESOLUTION TO AUTHORIZE A SETTLEMENT AGREEMENT WITH DALE AND MARTHA BENEDICT CONCERNING CONDEMNATION LITIGATION FILED AS PART OF THE VAN ASCHE DRIVE CONSTRUCTION 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 an agreement with Dale and Martha Benedict to include payment in the amount of $5,000.00, as well as the relocation of a driveway entrance on the north side of their property, as full and final settlement of condemnation litigation (City of Fayetteville v. Benedict, Washington County Circuit Court Case No. CV-2013-2266-7) filed as part of the Van Asche Drive Construction Project.

Section 2: That the City Council of the City of Fayetteville, Arkansas, in furtherance of the settlement, hereby approves payment of an additional $1,600.00, over and above the $3,400.00 placed on deposit with the court, and further approves the relocation of the driveway entrance.

PASSED and **APPROVED** this 17th day of June, 2014.

APPROVED:

By: ______________________________
LIONELD JORDAN, Mayor

ATTEST:

By: ______________________________
SONDRA E. SMITH, City Clerk/Treasurer

Van Asche Drive Right-of-Way
Part of Parcel No. 765-15830-001

WARRANTY DEED

BE IT KNOWN BY THESE PRESENTS:

THAT **Dale L. Benedict and Martha Benedict, husband and wife,** husband and wife, hereinafter called GRANTOR, for and in consideration of the sum of One Dollar ($1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, do hereby grant, bargain, sell and convey unto the **City of Fayetteville, Arkansas, a municipal corporation**, hereinafter called GRANTEE, and unto Grantee's successors and assigns, the following described land situated in the County of Washington, State of Arkansas, to-wit:

A part of the Northwest Quarter (NW¼) of the Southeast Quarter (SE¼) of Section Twenty-eight (28), Township Seventeen (17) North, Range Thirty (30) West, Washington County, Arkansas, being more particularly described as follows:

Beginning at the Northeast Corner of said forty (40) acre tract; thence along the Easterly line of said tract South 02°32'56" West 219.10 feet; thence leaving said Easterly line North 87°53'46" West 40.03 feet to the existing Westerly right-of-way of Garland Avenue (AR State Hwy. 112); thence continuing North 87°53'46" West 9.79 feet to the proposed Westerly right-of-way of Garland Avenue (AR State Hwy. 112); thence along said proposed right-of-way North 02°06'14" East 10.00 feet; thence continuing along said proposed right-of-way North 00°49'19" East 123.97 feet; thence continuing along said proposed right-of-way North 43°38'06" West 56.32 feet; thence North 88°09'04" West 258.81 feet; thence Nroth 03°39'24" East 11.23 feet to the existing Southerly right-of-way of AR State Hwy 112; thence North 02°47'30" East 40.00 feet to the Northerly line of said 40 acre tract; thence along said Northerly line South 87°12'30" East 352.68 feet to the Point of Beginning, containing 26,889 square feet, more or less, consisting of 21,287 square feet in existing city maintained right-of-way and 5,602 square feet in new proposed right-of-way.

TO HAVE AND TO HOLD the said lands and appurtenances hereunto belonging unto the said Grantee and Grantee's successors and assigns, forever. And the said Grantors, hereby covenant that they are lawfully seized of said lands and premises; that the same is unencumbered, and that the Grantors will forever warrant and defend the title to the said lands against all legal claims whatever.

WITNESS the execution hereof on this ________________ day of ________________________, 2013.

REVENUE STAMPS AFFIDAVIT

The foregoing deed has the correct amount of Revenue Stamps affixed to it or is exempt from such stamps.

Signed: ____________________________
City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

____
Dale L. Benedict

____
Martha Benedict

ACKNOWLEDGMENT

STATE OF ARKANSAS)
) ss.
COUNTY OF WASHINGTON)

BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared **Dale L. Benedict and Martha Benedict, husband and wife,** to me well known as the persons who executed the foregoing document, and who stated and acknowledged that they had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this __________ day of ___________________, 2013.

MY COMMISSION EXPIRES:

____

____
Notary Public

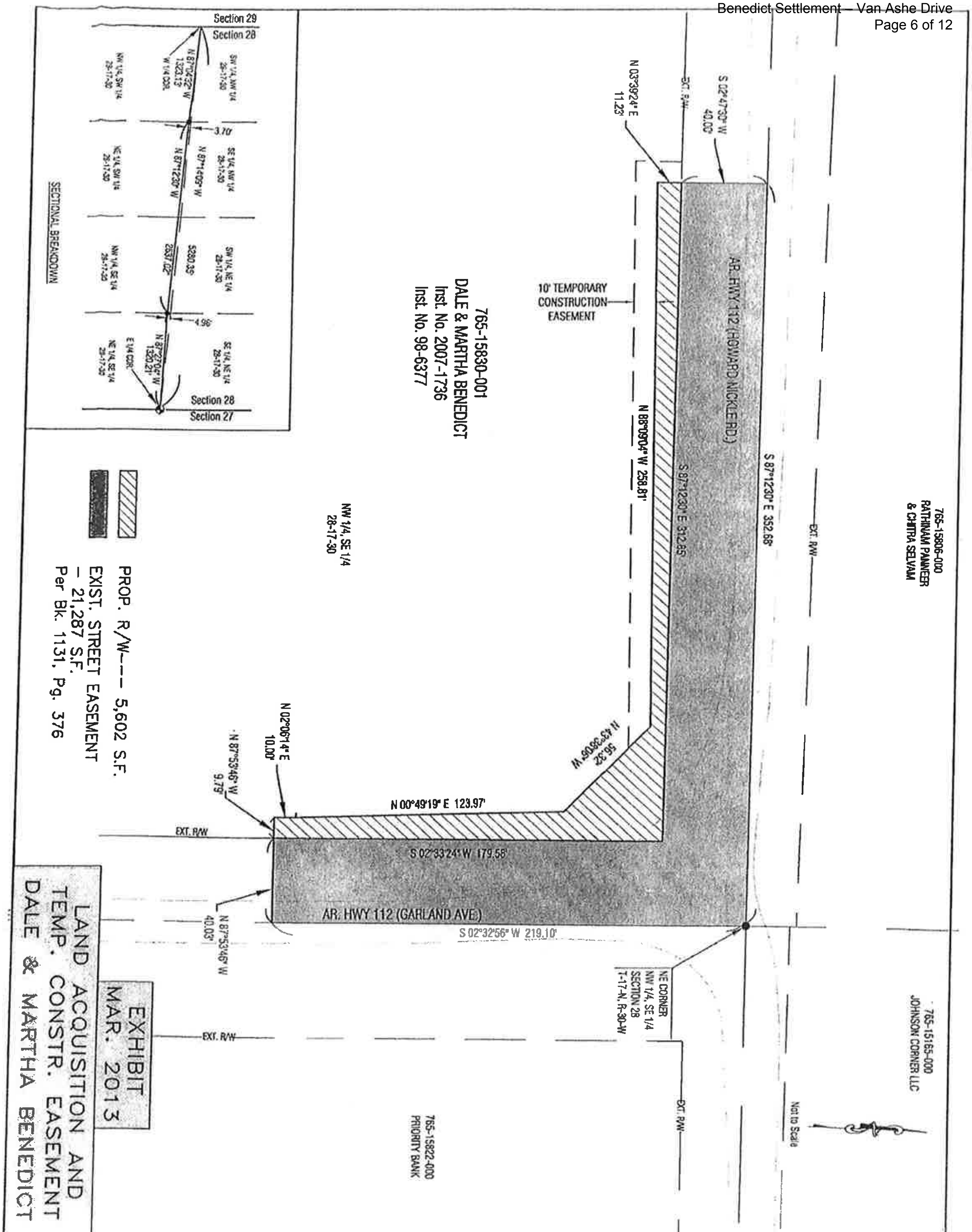


EXHIBIT
MAR. 2013
LAND ACQUISITION AND
TEMP. CONSTR. EASEMENT
DALE & MARTHA BENEDICT
PROP. R/W--- 5,602 S.F.
EXIST. STREET EASEMENT
– 21,287 S.F.
Per Bk. 1131, Pg. 376
765-15830-001
DALE & MARTHA BENEDICT
Inst. No. 2007-1736
Inst. No. 98-6377
NW 1/4, SE 1/4
28-17-30
10' TEMPORARY
CONSTRUCTION
EASEMENT
AR. HWY 112 (HOWARD NICKLE RD.)
AR. HWY 112 (GARLAND AVE.)
S 87°12'30" E 352.68'
S 87°12'30" E 312.65'
N 88°09'04" W 258.81'
N 43°38'09" W
56.32'
N 00°49'19" E 123.97'
S 02°33'24" W 179.58'
S 02°32'56" W 219.10'
N 02°06'14" E
10.00'
N 87°53'46" W
9.79'
N 87°53'46" W
40.03'
S 02°47'30" W
40.00'
N 03°39'24" E
11.23'
EXT. R/W
NE CORNER
NW 1/4, SE 1/4
SECTION 28
T-17-N, R-30-W
765-15806-000
RATHINAM PANNEER
& CHITRA SELVAM
765-15165-000
JOHNSON CORNER LLC
765-15822-000
PRIORITY BANK
Not to Scale
SECTIONAL BREAKDOWN
Section 29
Section 28
Section 28
Section 27
3.70'
4.96'
E 1/4 COR.

Van Asche Drive Right-of-Way
Parcel No. 765-15830-001

TEMPORARY CONSTRUCTION AND GRADING EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT **Dale L. Benedict and Martha Benedict, husband and wife,** hereinafter called GRANTORS, for and in consideration of the sum of One Dollar ($1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, do hereby GRANT, SELL and CONVEY unto the **City of Fayetteville, Arkansas, a municipal corporation**, hereinafter called GRANTEE, and unto Grantee's successors and assigns, a temporary construction and grading easement on, over, and through the following described land situated in the County of Washington, State of Arkansas, for the sole purposes necessary for construction of Van Asche Drive Improvements, to-wit:

PROPERTY DESCRIPTION: (Deed Book 1412 at Page 935)

Part of the NE¼ of the SW¼ and part of the NW¼ of the SE¼ of Section 28, Township 17 North, Range 30 West of the 5th Principal Meridian, all in Washington County, Arkansas, more particularly described as follows, to-wit: Commencing at the Northwest corner of the NE¼ of the SW¼ of said Section 28, Township 17 North, Range 30 West, thence along the centerline of Highway 112, South 89 degrees 35 minutes 36 seconds East 941.81 feet to the POINT OF BEGINNING, thence along the centerline of Highway 112 South 89 degrees 35 minutes 36 seconds East 1704.36 feet, thence along the centerline of Highway 112 South 801.84 feet, thence North 89 degrees 28 minutes 28 seconds West 1984.09 feet, thence North 179.25 feet, thence along an existing fence North 02 degrees 04 minutes 03 seconds West 154.99 feet; thence along an existing fence which is the South property line of the Sandlin property North 89 degrees 42 minutes 25 seconds East 299.39 feet, thence along an existing fence which is the East property line of the Sandlin property North 01 degrees 45 minutes 19 seconds West 460.28 feet to the POINT OF BEGINNING, containing 33.397 acres, more or less.

TEMPORARY CONSTRUCTION AND GRADING EASEMENT DESCRIPTION:

A ten (10) foot temporary construction and grading easement of equal and uniform width located along the South side of the proposed new right-of-way of Arkansas Highway 112, as shown on the attached Exhibit. This temporary construction and grading easement contains 2,853 square feet, more or less.

Together with the rights, easements, and privileges in or to said lands which may be required for the full enjoyment of the rights herein granted.

This temporary construction and grading easement as conditioned above, shall terminate when the hereinabove referenced project has been completed by the contractor and accepted by the City of Fayetteville, Arkansas.

It is expressly understood that the above temporary construction and grading easement shall exclude any permanent structure(s) which may be located or under construction within said temporary construction easement area during the construction of this project.

TO HAVE AND TO HOLD the same unto the said Grantee, its successors and assigns, together with free ingress to and egress from the real estate first herein above described for the uses and purposes herein above set forth.

The consideration first above recited as being paid to the Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this easement on behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

WITNESS the execution hereof on this the _______ day of ________________, 2013.

______________________________ **Dale L. Benedict**

______________________________ **Martha Benedict**

ACKNOWLEDGMENT

STATE OF ARKANSAS)
) ss.
COUNTY OF WASHINGTON)

BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared **Dale L. Benedict and Martha Benedict, husband and wife**, to me well known as the persons who executed the foregoing document, and who stated and acknowledged that they had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this ________ day of _________________, 2013.

MY COMMISSION EXPIRES:

_________________________   _________________________
Notary Public

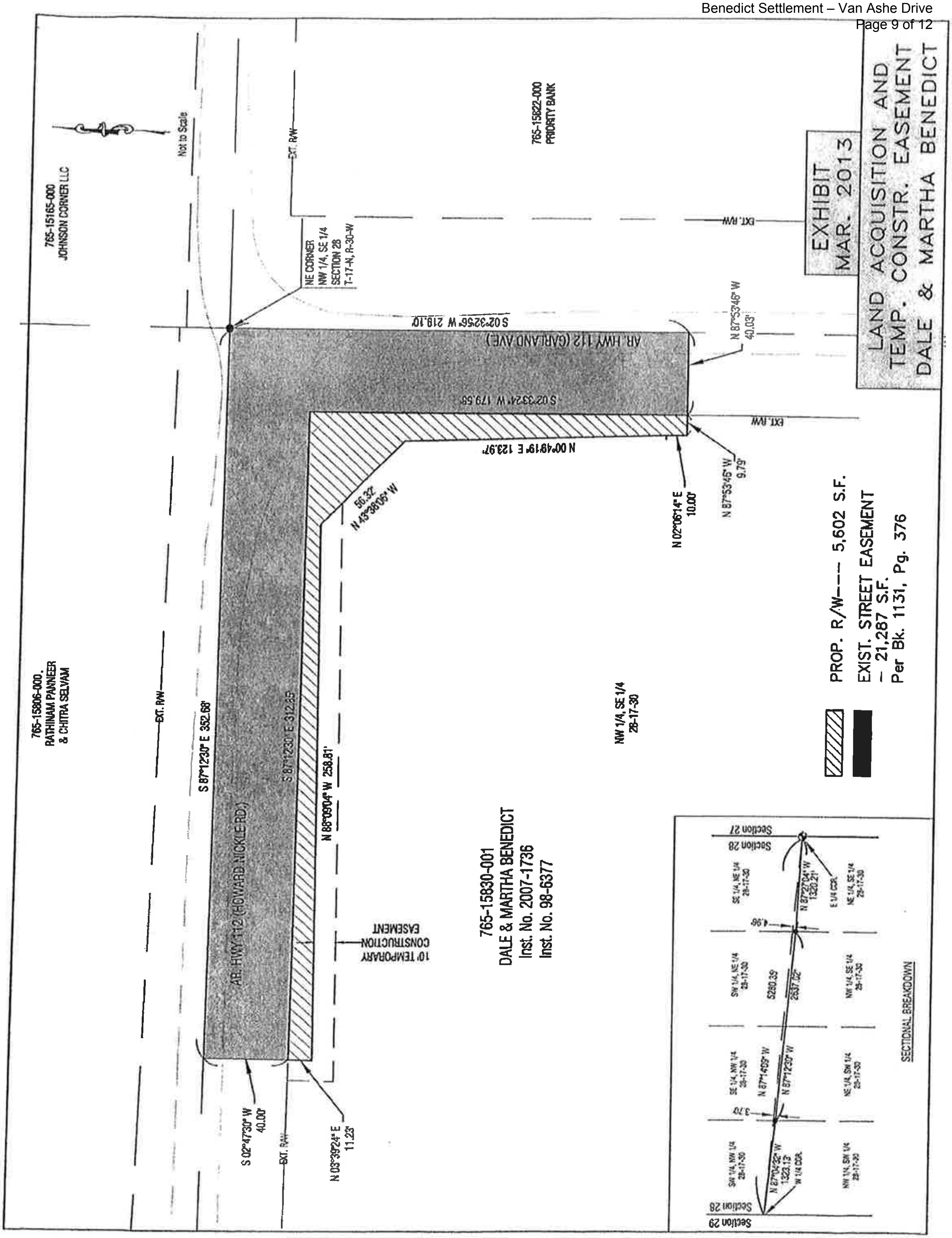


EXHIBIT
MAR. 2013
LAND ACQUISITION AND
TEMP. CONSTR. EASEMENT
DALE & MARTHA BENEDICT
765-15165-000
JOHNSON CORNER LLC
Not to Scale
765-15822-000
PRIORITY BANK
EXT. R/W
NE CORNER
NW 1/4, SE 1/4
SECTION 28
T-17-N, R-30-W
S 02°32'56" W 218.10'
AR. HWY 112 (GARLAND AVE.)
N 87°53'46" W
40.03'
S 02°33'24" W 179.58'
N 00°48'19" E 123.97'
N 02°06'14" E
10.00'
N 87°53'46" W
9.79'
56.32'
N 43°38'06" W
765-15806-000,
RATHINAM PANNEER
& CHITRA SELVAM
S 87°12'30" E 352.68'
S 87°12'30" E 312.85'
N 88°09'04" W 258.81'
AR. HWY 112 (HOWARD NICKLE RD.)
NW 1/4, SE 1/4
28-17-30
765-15830-001
DALE & MARTHA BENEDICT
Inst. No. 2007-1736
Inst. No. 98-6377
10' TEMPORARY
CONSTRUCTION
EASEMENT
S 02°47'30" W
40.00'
N 03°39'24" E
11.23'
PROP. R/W--- 5,602 S.F.
EXIST. STREET EASEMENT
- 21,287 S.F.
Per Bk. 1131, Pg. 376
SECTIONAL BREAKDOWN
Section 27
Section 28
Section 29
N 87°27'04" W
1320.21'
5280.39
2637.02
N 87°14'09" W
N 87°12'30" W
N 87°04'32" W
1323.13
W 1/4 COR.
E 1/4 COR.
4.96'
3.70'

PLEASE RETURN TO:
CITY OF FAYETTEVILLE
113 W. MOUNTAIN
FAYETTEVILLE, AR 72701
(479) 444-3407
FAX: (479) 575-8202

VENDOR FORM

Vendor # ______________________
(For Office Use Only)

According to the Federal Income Tax Law, the City is required to obtain the information listed below from all individuals and companies with whom we do business. Failure to comply may subject you and/or your company to certain penalties, as well as withholding tax.

Please complete the following:

_____ Sole Proprietorship
_____ Corporation
_____ Partnership
_____ Tax-exempt organization under Section 501(a)
_____ Foreign Government
__X__ Individual
_____ Other (please explain)

Tax Identification Number:

______________ Federal employer identification number

OR

______________ Social Security number (for individual or sole proprietors)

______________ Name associated with above Social Security number

I certify that the above information is true and correct.

Dale L. and Martha J. Benedict
Name of Individual or Business

P.O. Box 1927
Address

Fayetteville, AR 72704
City, State, Zip Code

____
Signature

____
Date

N/A
Title

Please mail or FAX this completed form to the City of Fayetteville at the above address or FAX number.


1270
380'
1260
70' ±
60' ±
15' ±
1250
BENEDICT DRIVEWAY

City of Fayetteville Item Review Form

2014-0244

Legistar File Number

June 17, 2014

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

Connie Edmonston
Submitted By

Parks & Recreation
Department

Action Required:

Approval of a resolution to establish the "Fayetteville Natural Areas Preservation Account" and to recognize the receipt of $4,700 distribution this year and the distributions for the two succeeding years to be used to help complete the $300,000 commitment from the Fayetteville Natural Heritage Association towards the purchase of Mt. Kessler.

Does this item have a cost? No

		Fayetteville Natural Areas Preservation
Cost of this request	Category or Project Budget	Program or Project Name
1010.1537.00		
Account Number	Funds Used to Date	Program or Project Category
	$0.00	General
Project Number	Remaining Balance	Fund Name

Budgeted Item? No

Budget Adjustment Attached? No

V20130812

Previous Ordinance or Resolution # 40-14

Original Contract Number:

Comments:

CITY OF
Fayetteville
ARKANSAS

CITY COUNCIL AGENDA MEMO

Revised Memo

MEETING OF JUNE 17, 2014

TO: Mayor and City Council

THRU: Don Marr, Chief of Staff

FROM: Connie Edmonston, Parks and Recreation Director

DATE: May 30, 2014

SUBJECT: Approval of a resolution to establish the "Fayetteville Natural Areas Preservation Account" and to recognize the receipt of $4,700 distribution this year and the distributions for the two succeeding years to be used to help complete the $300,000 commitment from the Fayetteville Natural Heritage Association towards the purchase of Mt. Kessler.

RECOMMENDATION:

Approval of a resolution to establish the "Fayetteville Natural Areas Preservation Account" and to recognize the receipt of $4,700 distribution this year and the distributions for the two succeeding years to be used to help complete the $300,000 commitment from the Fayetteville Natural Heritage Association towards the purchase of Mt. Kessler.

BACKGROUND:

The Fayetteville Natural Areas Foundation was created by Dr. and Mrs. Pete Heinzelmann, and Duane and Judy Woltjen. The mission of the foundation is as follows:

> "Dedication to conserving the natural areas of Fayetteville and its environs for the benefit of present and future generations."

This foundation is managed by the Endeavor Foundation. The foundation's distributions will be paid into the City of Fayetteville's account named as Fayetteville Natural Areas Preservation Account. These funds may only be used by our City to purchase land appropriate for nature preserves and/or conservation easements. The land must be used for "passive recreation such as nature study, biking, hiking, walking, and boating, which may include areas along rivers and streams or lakes such as Lake Fayetteville." In addition, the funding may be used for onsite kiosks and signage. These funds may not be used for organized sport recreational areas or support facilities such as bathrooms or parking lots. Support facilities such as public access points and /or trailheads with restroom/parking may be constructed on the property utilizing other funding sources.

The Fayetteville Natural Areas Foundation funds may only be used for up to one-third of the cost of the land. The City's two-thirds funding match required by the foundation may only be used for the cost of land or conservation easement. The City must pay for all surveying and appraisal costs. See the attached Designated Fund Agreement - Statement of Donor's Intent, as included as Exhibit B in the resolution.

DISCUSSION:
The Fayetteville Natural Areas Foundation requests that their $4,700 distribution to the City of Fayetteville for this year and the distributions for the two succeeding years be used to help complete the $300,000 commitment from the Fayetteville Natural Heritage Association (FNHA) toward the purchase of Mt. Kessler. The $4,700 check from the foundation has been received by the City for the 2014 distribution. The 2015 and 2016 distribution amounts are unknown at this time. The Foundation accepts donations from citizens who wish to contribute to the mission of conserving natural areas in Fayetteville.

BUDGET/STAFF IMPACT:
This funding will help in the purchase of Mt. Kessler and with other land purchases in the future. As land is added into our parks system, there will be an impact on staff, maintenance and other operational expenses for the Parks and Recreation Department.

Attachments:
Resolution including Exhibit B: Designated Fund Agreement – Statement of Donor's Intent
Donor's Request
Resolution No. 40.14 – Mt. Kessler Acquisition

Alderman Adela Gray
Ward 1 Position 1

Alderman Sarah Marsh
Ward 1 Position 2

Alderman Mark Kinion
Ward 2 Position 1

Alderman Matthew Petty
Ward 2 Position 2

Mayor Lioneld Jordan
City Attorney Kit Williams
City Clerk Sondra E. Smith

Alderman Justin Tennant
Ward 3 Position 1

Alderman Martin W. Schoppmeyer, Jr.
Ward 3 Position 2

Alderman Rhonda Adams
Ward 4 Position 1

Alderman Alan T. Long
Ward 4 Position 2

City of Fayetteville Arkansas
City Council Meeting
June 03, 2014

A meeting of the Fayetteville City Council was held on June 03, 2014 at 5:30 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Mayor Jordan called the meeting to order.

PRESENT: Alderman Adella Gray, Sarah Marsh, Mark Kinion, Justin Tennant, Martin Schoppmeyer, Rhonda Adams, Alan Long, Mayor Lioneld Jordan, City Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience.

Absent: Alderman Matthew Petty

Pledge of Allegiance

<u>Mayor's Announcements, Proclamations and Recognitions:</u>

Mayor Jordan asked the students from Ms. Shay Hopper's Woodland Junior High School government class to stand and be recognized.

City Council Meeting Presentations, Reports and Discussion Items: None

Agenda Additions: None

Consent:

Approval of the May 20, 2014 City Council meeting minutes.

Approved

Evans Construction and Remodeling, LLC: A resolution to authorize a contract with Evans Construction and Remodeling, LLC in the amount of $24,900.00 for Community Development Block Grant rehabilitation of an eligible residence located at 505 West Mountain Street.

Resolution 102-14 as recorded in the office of the City Clerk.

Bid #14-24 Lewis Ford Sales, Inc.: A resolution to award Bid #14-24 to Lewis Ford Sales, Inc. of Fayetteville, Arkansas for the purchase of a 2015 Ford F550 pickup truck with Reading Utility Body in the amount of $44,276.00 for use by the Water and Sewer Operations Division, and to approve a budget adjustment.

Resolution 103-14 as recorded in the office of the City Clerk.

Bid #14-25 Lewis Ford Sales, Inc.: A resolution to award Bid #14-25 to Lewis Ford Sales, Inc. of Fayetteville, Arkansas for the purchase of a Ford F150 pickup truck with Maxon Lift Gate in the amount of $25,652.40 for use by the Recycling and Trash Collection Division, and to approve a budget adjustment.

Resolution 104-14 as recorded in the office of the City Clerk.

Bid #14-26 Lewis Ford Sales, Inc.: A resolution to award Bid #14-26 to Lewis Ford Sales, Inc. of Fayetteville, Arkansas for the purchase of a Ford F350 pickup truck with Reading Utility Body in the amount of $41,707.00 for use by the Water and Sewer Operations Division.

Resolution 105-14 as recorded in the office of the City Clerk.

Bid #14-27 Equipment Resource Management, Inc.: A resolution to award Bid #14-27 to Equipment Resource Management, Inc. of Little Rock, Arkansas for the purchase of a Wirtgen Milling Machine W200i in the amount of $589,690.00 with a trade-in allowance of $250,000.00 for a total cost to the city of $339,690.00 for use by the Transportation Division, and to approve a budget adjustment.

Resolution 106-14 as recorded in the office of the City Clerk.

Bid #14-21 Suncoast Infrastructure, Inc.: A resolution to award Bid #14-21, to authorize a contract with Suncoast Infrastructure, Inc. in the amount of $76,995.00 to construct Phase Two of

Elkins Outfall Gravity Sewer Improvements, to approve a $10,000.00 project contingency, and to approve a budget adjustment.

Resolution 107-14 as recorded in the office of the City Clerk.

State of Arkansas Department of Information Systems: A resolution to authorize the Mayor to sign a Master Service Agreement with the State of Arkansas Department of Information Systems in the amount of $52,000.00 for database administration services for the remainder of 2014, to approve a project contingency in the amount of $8,000.00, and to approve a budget adjustment.

Resolution 108-14 as recorded in the office of the City Clerk.

Alderman Marsh moved to accept the Consent Agenda as read. Alderman Long seconded the motion. Upon roll call the motion passed 7-0. Alderman Petty was absent.

Unfinished Business: None

Public Hearing:

Stroud Investment Properties, LLC: A resolution to order the razing and removal of a dilapidated and unsafe structure owned by Stroud Investment Properties, LLC located at 540 North Betty Jo Drive in the City of Fayetteville, Arkansas, and to approve a budget adjustment. ***This resolution was Tabled at the May 20, 2014 City Council meeting to the June 3, 2014 City Council meeting.***

Jeremy Pate, Director of Development Services stated the property had been razed and removed. He stated the site had been cleaned up and recommended the resolution be tabled indefinitely.

Alderman Adams moved to table the resolution indefinitely. Alderman Long seconded the motion. Upon roll call the motion passed 7-0. Alderman Petty was absent.

This resolution was tabled indefinitely.

New Business:

Stephen and Bonnie G. Turner Settlement: A resolution pursuant to Fayetteville Code of Ordinances Section 39.10(C)(4) to authorize the Mayor to pay $25,552.15 to Stephen and Bonnie G. Turner for a wastewater damage claim arising at 1532 N. Hillcrest Avenue, and to approve a budget adjustment.

Tim Nyander, Water & Sewer Operations Manager gave a brief description of the resolution.

Alderman Kinion moved to approve the resolution. Alderman Gray seconded the motion. Upon roll call the resolution passed 7-0. Alderman Petty was absent.

Resolution 109-14 as recorded in the office of the City Clerk.

VAC 14-4623 (229 N. School St./Parking Deck): An ordinance approving VAC 14-4623 submitted by the City of Fayetteville for property located at 2229 N. School Avenue to vacate a 5 foot utility easement and a 10 foot right-of-way easement.

City Attorney Kit Williams read the ordinance.

Jeremy Pate, Director of Development Services gave a brief description of the ordinance. He stated the Planning Commission approved the request 7-0 and all the conditions of approval are in the ordinance.

Alderman Marsh moved to suspend the rules and go to the second reading. Alderman Adams seconded the motion. Upon roll call the motion passed 7-0. Alderman Petty was absent.

City Attorney Kit Williams read the ordinance.

Alderman Tennant moved to suspend the rules and go to the third and final reading. Alderman Marsh seconded the motion. Upon roll call the motion passed 7-0. Alderman Petty was absent.

City Attorney Kit Williams read the ordinance.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Petty was absent.

Ordinance 5690 as Recorded in the office of the City Clerk

Amend Chapter 50 Garbage and Trash: An ordinance to change the name of Chapter 50 Garbage and Trash to Recycling and Trash Collection, to change all references to Solid Waste and Recycling Division within Chapter 50 to Recycling and Trash Collection Division, to change "Operations Director" to "Recycling and Trash Collection Manager" throughout Chapter 50, and to amend §50.05 Depositing on Streets, Alleys, or Sidewalks of the Fayetteville Code.

City Attorney Kit Williams read the ordinance.

Brian Pugh, Waste Reduction Coordinator stated he would be happy to answer any questions.

Alderman Gray moved to suspend the rules and go to the second reading. Alderman Marsh seconded the motion. Upon roll call the motion passed 7-0. Alderman Petty was absent.

City Attorney Kit Williams read the ordinance.

Alderman Long moved to suspend the rules and go to the third and final reading. Alderman Marsh seconded the motion. Upon roll call the motion passed 7-0. Alderman Petty was absent.

City Attorney Kit Williams read the ordinance.

Alderman Adams addressed Ms. Shay Hopper's Woodland Junior High School government class about the importance of words and what one word can do in a sentence.

Alderman Marsh discussed the definitions of waste and trash.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Petty was absent.

Ordinance 5691 as Recorded in the office of the City Clerk

Amend §174.08 Prohibited Signs: An ordinance to amend §174.08 Prohibited Signs (C) Portable Swinger or Temporary Attraction Sign Boards to allow more freestanding "A" frame sandwich/menu sign boards.

City Attorney Kit Williams read the ordinance.

City Attorney Kit Williams gave a brief description of the ordinance. He stated that Alderman Petty had brought this item forward.

City Attorney Kit Williams: Do you have any comments about the sign ordinance Jeremy?

Jeremy Pate, Director of Development Services: We try to stay content neutral on our sign ordinance. We are supportive of this particular section. We sometimes see retail establishments utilize these sandwich boards. Normally it is on properties that do not have the property to have their own free standing sign. It is primarily downtown where the building is right next to the sidewalk and all they have is the building sign, so this allows for someone to advertise their business. There are some safeguards that were in the original ordinance that remains such as ADA compliance, maintaining a minimum of five feet of sidewalk and only advertising for the business adjacent to it.

Alderman Marsh: I want to emphasize the importance of our sidewalks remaining ADA compliant and this does require that. I have seen a lot of signs blocking the sidewalks. I want to emphasize for businesses to make sure you have at least five feet of clear sidewalk left after the signs are placed and accommodate anyone who is mobility challenged.

Alderman Long moved to suspend the rules and go to the second reading. Alderman Marsh seconded the motion. Upon roll call the motion passed 7-0. Alderman Petty was absent.

City Attorney Kit Williams read the ordinance.

Alderman Gray: There isn't anything that says this is strictly for restaurants?

City Attorney Kit Williams: No. It used to be for restaurants and now it is for any retail commercial establishment if the sidewalk in front of their business is big enough to be ADA compatible. Not every sidewalk in town would have that.

Alderman Tennant: When this was first put together, if we are trying to be neutral in our signs to let anybody do this, why didn't we do it in the first place?

City Attorney Kit Williams: I think it was viewed as a new change to the sign ordinance. We don't want to have too many exceptions to the sign ordinance. Consistency is something good to have and so we didn't allow this sort of thing before. It was felt like there was special case needs for restaurants to be able to advertise what was going on that day. I think that is why the City Council at that point felt it was appropriate for the restaurants, but they wanted to limit it as much as possible. I think this is something we need to look at in the future. It might be that this is something that will open the doors too wide and present clutter. One of our basis of our sign ordinance is aesthetics and so if this would damage that too much, then you could look at it again.

Alderman Tennant: I am in full support. I was trying to get a little history of it.

A discussion continued about the freestanding "A" frame sandwich/menu sign boards and who would enforce the ordinance if city code was broken.

Alderman Tennant moved to suspend the rules and go to the third and final reading. Alderman Long seconded the motion. Upon roll call the motion passed 7-0. Alderman Petty was absent.

City Attorney Kit Williams read the ordinance.

City Attorney Kit Williams stated he notified a new business that had two signs up and the business was very quick to comply in taking one down. He stated the signs are easy to move.

Mayor Jordan asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Petty was absent.

Ordinance 5692 as Recorded in the office of the City Clerk

City Council Agenda Session Presentations:

One Book One Community – Maylon Rice

City Council Tour: None

Announcements:

Alderman Marsh: The Fayetteville Forward Green Economy Group will be hosting its forum on Sustainable Transportation, Friday, June 6, 2014 at 8:00 a.m. at the Fayetteville Chamber of Commerce. Everyone is welcome and it is a free event.

City Attorney Kit Williams: Alderman Petty is not here because he is at a conference that Don Marr, Jeremy Pate and Mayor Jordan will be attending.

Don Marr, Chief of Staff: The Mayor, Jeremy and I, along with our Chamber President Steve Clark, Alderman Petty, representatives from Fayetteville, Springdale, Rogers, Bentonville, Siloam Springs and Eureka Springs are all going to the Congress of New Urbanism to look at initiatives as a region.

Please welcome the Wal-Mart shareholders in town this week.

Our newly remodeled Wilson Park pool opens this Friday, June 6, 2014. Vice Mayor Kinion will be doing a ribbon cutting in the Mayor's absence. The pool opens at 4:00 p.m. and the ribbon cutting is at 5:00 p.m. It is a nice renovated facility and at dark we will have our dive-in movie.

The 9th annual Pitch for the Cure Tournament is June 6-8, 2014.

Artist Fair continues its event this weekend with a symphony performance.

Through the Garden Gate sponsored by Botanical Garden of the Ozarks and Westwood Gardens will be on June 7, 2014 at 9:00 a.m.

Alderman Kinion: We have First Thursday this week.

Adjournment: 6:00 p.m.

Lioneld Jordan, Mayor	**Sondra E. Smith, City Clerk/Treasurer**

Alderman Adela Gray
Ward 1 Position 1

Alderman Sarah Marsh
Ward 1 Position 2

Alderman Mark Kinion
Ward 2 Position 1

Alderman Matthew Petty
Ward 2 Position 2

Mayor Lioneld Jordan
City Attorney Kit Williams
City Clerk Sondra E. Smith

Alderman Justin Tennant
Ward 3 Position 1

Alderman Martin W. Schoppmeyer, Jr.
Ward 3 Position 2

Alderman Rhonda Adams
Ward 4 Position 1

Alderman Alan T. Long
Ward 4 Position 2

Tentative Agenda
City of Fayetteville Arkansas
City Council Meeting
June 17, 2014

A meeting of the Fayetteville City Council will be held on June 17, 2014 at 5:30 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

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**

Agenda Additions:

A. Consent:

1. Approval of the June 03, 2014 City Council meeting minutes.

2. **Net Neutrality:** A resolution to express the City Council's support for Net Neutrality.

3. **Arkansas Historic Preservation Program:** A resolution approving a grant agreement with the Arkansas Historic Preservation Program in the amount of $8,515.00 for travel and training, and for hiring a qualified consultant to research and catalog historic structures; and approving a budget adjustment recognizing the grant revenue.

B. Unfinished Business: None

C. New Business:

1. **Fayetteville Natural Areas Preservation Account:** A resolution to establish the "Fayetteville Natural Areas Preservation Account" and to establish requirements for disbursals therefrom.

2. **Arkansas State Highway and Transportation Department:** A resolution to authorize a payment of $3,500,000.00 to the Arkansas State Highway and Transportation Department representing an initial payment of the City's portion of construction, right of way acquisition and utility relocation costs related to the widening of Highway 112.

3. **Walton Arts Center Council, Inc. Lease:** A resolution to approve an amended and restated lease agreement among the University of Arkansas and City of Fayetteville as landlords and the Walton Arts Center Council, Inc. as tenant.

4. **Amended Articles of Incorporation for the Walton Arts Center Council and Foundation:** An ordinance to approve the Fifth Amendment to the Articles of Incorporation of the Walton Arts Center Foundation, Inc., the Sixth Amendment of the Articles of Incorporation of the Walton Arts Center Council, Inc. and their amended Bylaws, and the Amended and Restated Interlocal Cooperation Agreement between the University of Arkansas and the City of Fayetteville.

D. City Council Agenda Session Presentations:

1. "My Fayetteville Services" Presentation by City GIS director Greg Mitchell

E. City Council Tour:

F. Announcements:

Adjournment:

NOTICE TO MEMBERS OF THE AUDIENCE

All interested persons may address the City Council on agenda items of New and Old Business. Please wait for the Mayor to request public comment and then come to the podium, give your name, address, and comments about the agenda item. Please address only the Mayor. Questions are usually answered by the Mayor, Aldermen or Staff after the public comment period is over. Please keep your comments brief and respectful. Each person is only allowed one turn at the microphone for discussion of an agenda item.

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

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 an Alderman 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.
>
> **Old business and new business.**
>
> > **Presentations by staff and applicants.** Agenda items 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 an alderman later to answer questions. Staff and applicants may use electronic visual aids in a City Council meeting as part of their presentation.
> >
> > **Public comments.** Public comment shall be allowed for all members of the audience on all items of old and new business and subjects of public hearings. No electronic visual aid presentations shall be allowed, but the public may submit photos, petitions, etc. to be distributed to the City Council. If a member of the public wishes for the City Clerk to distribute materials to the City Council before its meeting, such materials should be supplied to the City Clerk office no later than 9:00 a.m. on the day of the City Council meeting. Any member of the public shall first state his or her name and address, followed by a concise statement of the person's position on the question under discussion. Repetitive comments should be avoided; this applies to comments made previously either to the City Council or to the Planning Commission when those Planning Commission minutes have been provided to the Aldermen. All remarks shall be addressed to the Mayor or the City Council as a whole and not to any particular member of the City Council. No person other than the Aldermen and the person having the floor shall be permitted to enter into any discussions without permission of the Mayor. No questions shall be directed to an Alderman or city staff member except through the Mayor.
>
> **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 rude or derogatory remarks, reflections as to integrity, abusive comments and statements about motives or personalities. 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 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 at www.fayetteville-ar.gov or in the office of the City Clerk, 113 W. Mountain, Fayetteville, Arkansas.

City of Fayetteville Staff Review Form

2014-0235

Legistar File ID

6/17/14

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

Telecommunications Board via Fritz Gisler	Communications & Marketing
Submitted By	**Division / Department**

Action Recommendation:

Pass a Resolution in support of true Net Neutrality, specifically urging the FCC to assure equal access by reclassifying broadband providers as common carriers under Title II of the Communications Act, and to communicate said Resolution to the Federal Communications Commission by July 15, 2014, in response to the FCC's "Notice of Proposed Rulemaking" FCC #14-61 and Proceeding No. 14-28 Protecting and Promoting the Open Internet.

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	$ -

V20140314

ENTERED 5/28/14 pm

ENT. 5/28/14 P.M.

Previous Ordinance or Resolution #

Original Contract Number:

Approval Date:

Comments: 5/28/14

Paul A. Becker

5/29/14

CITY OF
Fayetteville
ARKANSAS

CITY COUNCIL AGENDA MEMO

MEETING OF JUNE 17, 2014

TO: Mayor and City Council

THRU: Lindsley Smith, Director of Communication
Fritz Gisler, Director of Media Services

FROM: Telecommunications Board

DATE: May 23, 2014

SUBJECT: **Net Neutrality and the Federal Communications Commission**

RECOMMENDATION:
Pass a Resolution supporting completely open access to the Internet and providing the Resolution to the Federal Communications Commission.

BACKGROUND:
On January 14, 2014, a Federal Appeals Court struck down the Federal Communications Commission's rules regarding 'net neutrality', a term coined by Columbia University law professor Tim Wu.

Net neutrality is the principle that Internet service providers and governments should treat all data on the Internet equally, not discriminating or charging differentially by user, content, site, platform, application, type of attached equipment, or modes of communication.

From an article in the Wall Street Journal, dated January 14, 2014:

> "The ruling was a blow to the Obama administration, which has pushed the idea of "net neutrality." And it sharpened the struggle by the nation's big entertainment and telecommunications companies to shape the regulation of broadband, now a vital pipeline for tens of millions of Americans to view video and other media.
> For consumers, the ruling could usher in an era of tiered Internet service, in which they get some content at full speed while other websites appear slower because their owners chose not to pay up."

On May 15, 2014, the FCC issued a "Notice of Proposed Rulemaking" FCC 14-61 (http://www.fcc.gov/document/protecting-and-promoting-open-internet-nprm) to address the issue of net neutrality. There is now a 60-day period open to allow comments from the public to the FCC regarding these proposed rules.

DISCUSSION:
At its May 15, 2014, meeting, The City of Fayetteville Telecommunications Board discussed the issue of Net Neutrality and the impact that discrimination of access based on content would have on open and transparent government in general, and specifically in Fayetteville. The

Internet (including Web sites, email, alert systems, software systems, data storage, data exchange, etc.) has become an essential tool utilized by the City of Fayetteville for operations and communications, both internally and externally. Anything that can have a detrimental effect on open and non-discriminatory access to the Internet will have far-reaching consequences. Reduced access to the Internet could both increase the costs and reduce the efficiency of the City's ability to communicate effectively with its citizens, and they in return.

It is the opinion of the Telecommunications Board that open and non-discriminatory access to the Internet for both content providers and content consumers is essential for the free exchange of ideas, open discussion, open and transparent government, and an informed citizenry. We cannot support a two-tiered Internet with fast lanes that speed the access and messages of the privileged and leave our citizens, local governments, schools, libraries, and hospitals lagging behind on dirt roads.

By a unanimous vote at its May 15th meeting, the Telecommunications Board advises the City Council to pass a Resolution in support of true Net Neutrality, specifically urging the FCC to assure equal access by reclassifying broadband providers as common carriers under Title II of the Communications Act, and to communicate said Resolution to the Federal Communications Commission by July 15, 2014, in response to the FCC's "Notice of Proposed Rulemaking" FCC #14-61 and Proceeding No. 14-28 Protecting and Promoting the Open Internet.

BUDGET/STAFF IMPACT:
None

RESOLUTION NO. ______

A RESOLUTION TO EXPRESS THE CITY COUNCIL'S SUPPORT FOR NET NEUTRALITY

WHEREAS, the Internet has become an essential tool utilized by the City of Fayetteville for operations and communications, both internally and externally; and

WHEREAS, reduced access to the Internet could both increase the costs and reduce the efficiency of the City's ability to communicate effectively with its citizens and for citizens to communicate with the City; and

WHEREAS, open and non-discriminatory access to the Internet for content providers and consumers is essential for the free exchange of ideas, open discussion, open and transparent government, and an informed citizenry; and

WHEREAS, the Federal Communications Commission has issued a Notice of Proposed Rulemaking to address the issue of net neutrality with a sixty day period for public comment and the City Council desires for its position to be made part of the public record on this issue.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby expresses its support for net neutrality and urges the Federal Communications Commission to ensure equal access by reclassifying broadband providers as common carriers under Title II of the Communications Act.

PASSED and **APPROVED** this 17th day of June, 2014.

APPROVED: ATTEST:

By: ______________________
LIONELD JORDAN, Mayor

By: ______________________
SONDRA E. SMITH, City Clerk/Treasurer

City of Fayetteville Item Review Form

2014-0242
Legistar File Number

06/17/2014
City Council Meeting Date - Agenda Item Only
N/A for Non-Agenda Item

Jesse Fulcher	Development Services
Submitted By	**Department**

Action Required:

City Council approval of a budget adjustment and contract with the Arkansas Historic Preservation Program to receive a Certified Local Government grant in the amount of $8,515.00 to provide travel and training funds for the Historic District Commission and City staff, and to hire a qualified consultant to research and catalog historic structures.

Does this item have a cost? No

		Historic Preservation
Cost of this request	Category or Project Budget	Program or Project Name
1010.6300.5304.00		Travel, Training
Account Number	Funds Used to Date	Program or Project Category
36024.1301	$0.00	General
Project Number	Remaining Balance	Fund Name

Budgeted Item? No **Budget Adjustment Attached?** Yes

V20130812

Previous Ordinance or Resolution # n/a

Original Contract Number: n/a

ENTERED 6/2/14

ENTERED King 5/30/14

Comments:

6/2/14

Paul A. Becker 6-2-2014

6-2-14

CITY OF
Fayetteville
ARKANSAS

CITY COUNCIL AGENDA MEMO

MEETING OF JUNE 17, 2014

TO: Fayetteville City Council

THRU: Andrew Garner, City Planning Director

FROM: Jesse Fulcher, Senior Planner

DATE: May 29, 2014

SUBJECT: Approval of a budget adjustment and contract with the Arkansas Historic Preservation Program to receive a Certified Local Government grant in the amount of $8,515.00.

RECOMMENDATION:
Planning Staff recommends approval of a budget adjustment and contract with the Arkansas Historic Preservation Program to receive a Certified Local Government grant in the amount of $8,515.00.

BACKGROUND:
Planning staff has applied for and received a Certified Local Government (CLG) grant in several years past to pay for travel and training for the Historic District Commission and City staff. Funding has also been provided for preservation projects that increase the community's awareness and understanding of historic preservation values.

DISCUSSION:
Planning staff and the Historic District Commission have requested grant funding in the amount of $3,510.00 for travel and training and $5,005.00 to hire a qualified consultant to research and catalog historic structures that aren't listed on the National Register. This data will be used in the second phase to create a dynamic multimedia resource that would be accessible to residents, visitors and historic development stakeholders.

BUDGET/STAFF IMPACT:
The City will provide in-kind services for approximately $12,140.00 in the form of staff time. Jesse Fulcher, Senior Planner, will spend approximately 10% of his time providing support to the Historic District Commission and administering the grant.

Attachments:
CC Ordinance
Certified Grant Agreement
Budget Adjustment Form

RESOLUTION NO.

A RESOLUTION APPROVING A GRANT AGREEMENT WITH THE ARKANSAS HISTORIC PRESERVATION PROGRAM IN THE AMOUNT OF $8,515.00 FOR TRAVEL AND TRAINING, AND FOR HIRING A QUALIFIED CONSULTANT TO RESEARCH AND CATALOG HISTORIC STRUCTURES; AND APPROVING A BUDGET ADJUSTMENT RECOGNIZING THE GRANT REVENUE.

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 grant agreement with the Arkansas Historic Preservation Program in the amount of $8,515.00 for travel and training, and for hiring a qualified consultant to research and catalog historic structures.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment recognizing the grant revenue.

PASSED and **APPROVED** this day of , 2014.

APPROVED:

By: ______________________________
LIONELD JORDAN, Mayor

ATTEST:

By: ______________________________
SONDRA E. SMITH, City Clerk/Treasurer

City of Fayetteville, Arkansas - Budget Adjustment Form (Legistar)

Budget Year	Division:	City Planning	Adjustment Number
2014	Dept.:	Development Services	
	Requestor:	Jesse Fulcher	

BUDGET ADJUSTMENT DESCRIPTION / JUSTIFICATION:

Budget adjustment to receive a Certified Local Government grant in the amount of $8,515.00 to provide travel and training funds, and to hire a qualified consultant to research and catalog historic structures.

COUNCIL DATE: 6/17/2014

LEGISTAR FILE ID#: **2014-0242**

Kevin Springer
5/30/2014 11:20 AM

Budget Director Date

TYPE:

DESCRIPTION:

GLDATE:

POSTED: /

RESOLUTION/ORDINANCE

v.20140428

	Increase / (Decrease)		Project.Sub#			
TOTAL	8,515	8,515				
Account Number	Expense	Revenue	Project	Sub	AT	Account Name
	-	-				
1010.6300.5304.00	8,515	-	36024	1301	EX	Travel & Training
1010.0001.4302.01	-	8,515	36024	1301	RE	State Grants - Operational
	-	-				
	-	-				
	-	-				
	-	-				
	-	-				
	-	-				
	-	-				
	-	-				
	-	-				
	-	-				
	-	-				
	-	-				
	-	-				
	-	-				
	-	-				

CERTIFIED LOCAL GOVERNMENT PROGRAM GRANT AGREEMENT
Grant Number 14-CLG-05

This agreement is entered into between the **City of Fayetteville**, Arkansas, hereinafter referred to as the City, and the Arkansas Historic Preservation Program, hereinafter referred to as AHPP. AHPP agrees to provide a grant in the amount of **$8,515** for the purpose of **providing training for the Historic District Commission and staff and to hire a consultant to research historic properties in Fayetteville to use on the City's website.**

THIS GRANT IS FOR THE ACCOMPLISHMENT OF THE PURPOSE, OBJECTIVE AND SCOPE OF WORK HEREIN DEFINED.

I. SCOPE OF WORK

A. The City will send one or more representatives of its Historic District Commission or staff to the National Alliance of Preservation Commission's 2014 FORUM and quarterly training meetings to be announced by AHPP.
$3,510 is designated for this activity.

B. The City will hire a qualified consultant to catalog, research, and verify historic structures in Fayetteville. The information will be used to update and enhance the City's website.
$5,005 is designated for this activity.

II. TIME FRAME of AGREEMENT

This agreement will begin on July 1, 2014, and shall extend until June 30, 2015.

III. SCHEDULE OF PAYMENTS

One half of the full grant amount shall be paid to the City upon a request for payment to AHPP to be submitted no earlier than July 1, 2014. The remaining half shall be paid to the City upon a request for payment to AHPP to be submitted no later than May 31, 2015.

IV. AHPP RESPONSIBILITIES

AHPP staff agrees to make periodic reviews of the project to review practices and products. AHPP reserves the right to enforce the procedures as outlined in this contract. AHPP agrees to make available advice and counsel necessary to accomplish the objectives and to render compensation upon invoice within a reasonable time frame.

V. REPORTING REQUIREMENTS

A. The City will submit quarterly reports detailing programmatic and fiscal progress of work on forms to be provided by AHPP on:
- September 30, 2014
- December 31, 2014
- March 31, 2015
- June 30, 2015 (Final)

B. The City will submit a final project report detailing all completed projects and including 5 copies each of all publications no later than June 30, 2015.

C. If changes in agreement - e.g.: scope of work, products, budgets, etc. - are required, then the City must submit a written request detailing proposed changes and wait for written approval from AHPP.

VI. COMPLIANCE

A. All policies and procedures of the Department of the Interior, the National Park Service as well as Federal regulations concerning expenditures of all Federal funds must be followed by the AHPP and all subgrant recipients. All grant projects will be administered by the AHPP in accordance with the Historic Preservation Fund Grants Manual, particularly "Chapter 9: Certified Local Governments". Separate financial records for each project will be maintained by the AHPP following Office of Management and Budget Guidelines. The City must maintain efficient and effective accountability and control of all funds received and expended under a subgrant from the AHPP.

B. The City agrees to the right of the AHPP director to review and comment on art set-up, written narrative of any printed material, and audio visual material produced by the grant prior to final printing or production and distribution.

C. The City must supply the State with evidence of compliance with Federal competitive procurement requirements for professional services and subcontractors prior to reimbursement.

D. All products and projects must comply with the applicable Secretary of the Interior's *Standards for the Rehabilitation of Historic Properties*. The *Standards* are:

1. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.

2. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall

be avoided.

3. Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.

4. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.

5. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a property shall be preserved.

6. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.

7. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.

8. Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.

9. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.

10. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

E. **SURVEY AND NATIONAL REGISTER NOMINATIONS:** All surveys and National Register Nominations (either new or those in progress) of historic structures, sites, etc. will meet the following criteria, as applicable, and will be completed by professionals who meet minimum Federal standards as specified in 36 CFR 61:

CONTRACTOR'S RESPONSIBILITES

Services are duties and tasks that the contractor must perform to meet the terms, conditions, and specifications of the contract.

Survey duties are:

1. It is required that the contractor complete an Arkansas Architectural Resources Form and provide site plans for each resource in the field.

2. The contractor will take 35mm black and white print photographs and color digital photographs of each resource in the field. At the very minimum the photographs should show all facades of each building. In addition, representative streetscape photographs (both black and white prints and color digital photos) will be provided by the Contractor.

3. The contractor will also need to locate each resource on a United States Geological Survey Map and provide UTM coordinates for each property. Additional hours will be spent on proper completion of forms for submission to AHPP.

4. Any new contractor must attend a training class on the procedures required for historic site survey. This one-day class, at the offices of AHPP, will train the Contractor in the proper and thorough completion of Arkansas Architectural Resources Forms, photography requirements, mapping, and compilation of the finished product.

5. The contractor must be able to adhere to set deadlines and provide initial and completed surveys by the dates set forth by AHPP.

6. The contractor will provide own transportation.

Nomination duties are:

1. It is required that the Contractor complete a National Register of Historic Places nomination form for the historic property.

2. The Contractor will take 35mm black and white print photographs and color digital photos of the historic property in the field. In the case of a proposed historic district, representative streetscape photographs (both black and white prints and color digital photos) will be provided by the Contractor. All photographs submitted must meet the National Park Service standards in *National Register Bulletin 16A: How to Complete the National Register Registration Form.* Photographs printed on Fujicolor Crystal Archive or equivalent papers do not meet the National Park Service standards, and will not be accepted.

3. The Contractor will label all photographs to be included with the completed National Register of Historic Places nomination according to the National Park Service instructions.

4. The Contractor will also need to locate the property on a United States Geological Survey Map and provide UTM coordinates for the historic district.

5. The Contractor will be responsible for presenting the proposed historic district to the Arkansas State Review Committee on Historic Preservation at the earliest meeting following completion and staff approval.

6. Any new Contractor must attend a training class on completing National Register of Historic Places nomination forms. This one-day class, at the offices of AHPP, will train the Contractor in the proper and thorough completion of National Register of Historic Places nomination forms, photography requirements, mapping, and compilation of the finished product.

7. The Contractor must be able to adhere to set deadlines and provide initial and completed nominations by the dates set forth by the AHPP.

8. The Contractor will provide own transportation.

9. The Contractor must have experience in photography using black and white and color digital photos and must provide two (2) single lens reflex cameras with wide-angle lenses for use in the field.

10. The Contractor will also provide archival sleeves for storage of negatives, photographs, and CDs for the digital photos.

11. The Contractor must work outside in extreme temperatures and provide proper attire for the weather conditions.

12. It is required that the Contractor complete National Register of Historic Places nomination forms.

13. The Contractor will perform all services and provide all materials to be produced under the contract in consultation with AHPP.

14. The Contractor will understand that all procedures developed and products provided under the contract will be subject to final approval by the committee at AHPP, Little Rock, AR.

15. The Contractor will understand that all records, data, proofs, negatives and copies pertaining to the contract will remain the property of the Agency.

16. The Contractor will conduct meetings with AHPP as required, to complete the project.

17. The AHPP will provide photocopies of completed architectural resource forms for all buildings in the district.

AHPP responsibilities (as applicable for architectural surveys and National Register Nominations)

1. The Agency will provide Arkansas Architectural Resources Forms and Ancillary Structures Forms as required by the contractor.

2. The Agency will provide access to the Agency's survey files and copies of previous survey work as required by the contractor.

3. The Agency will provide resource numbers for the contractor as required.

4. The Agency will provide a one-day training class at the AHPP offices in Little Rock on the procedures required for historic site survey. This class, at the offices of AHPP, will train the contractor in the proper and thorough completion of Arkansas Architectural Resources Forms, photography requirements, mapping, and compilation of the finished product.

The Agency will provide technical assistance as needed by the contractor.

F. **EASEMENTS:** The City will donate to AHPP a conservation easement on the property of any historic structure(s) being restored, rehabilitated, or repaired as a part of any project(s) utilizing ten thousand dollars ($10,000) or more of AHPP funds. On such projects involving private properties, it will be the City's responsibility to secure this easement for donation to AHPP before any grant funds are released.

VII. MANAGEMENT AND BUDGET GUIDELINES

The City must assure and certify that he will comply with the regulatiōns, policies, guidelines and requirements as they relate to the application, acceptance and use of Federal funds for this federally-assisted project, as contained in attachment G of OMB circular A-102. Also the City assures and certifies that:

A. The City will comply with and administer the project in conformance with the Civil Rights Act of 1964 (Public Law 88-352), as amended; as well as 43 CFR 17 and Part 506 of the Department Manual issued by the Department of the Interior; and Section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination against the handicapped. Title VI of the Civil Rights Act of 1964 stated that no person will, on the grounds or race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the applicant received Federal financial assistance and will immediately take any measures necessary to effectuate this agreement;

B. In all hiring or employment made possible by or resulting from grant awards, the City (1) will not discriminate against any employee or applicant from employment because of race, color, religion, sex, age, or national origin, and (2) will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, age, or national origin. This requirement applies to, but is not limited to, the following: employment promotion, demotion, or transfer; recruitment or other recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The City its subgrantees will comply with all applicable statutes and Executive orders on equal employment opportunity and grant awards will be governed by the provisions, as implemented by, but not limited to, Department of the Interior policies, published in 43 CFR 17;

C. The City will give AHPP and the National Park Service or the Comptroller General through any authorized representative the access to and the right to examine all records, books, papers, or documents related to the grant;

D. The City must comply with Federal competitive procurement requirements for professional services and subcontractors and will provide documentation of such compliance upon request.

E. The City will comply with the minimum wage and maximum hours provisions of the Federal Fair Labor Standards Act, as they apply to hospital and educational institution employees of state and local governments.

F. Upon completion of the project, the Secretary of the Interior, the Comptroller General of the United States, the AHPP, and/or any of their duly authorized representatives shall have access for the purpose of financial or programmatic audit and examination any books, documents, papers and records of the City that are pertinent to the grant at all reasonable times during the period of retention provided in OMB Circular A102, attachment C, for at least three (3) years or until all claims or audit findings have been resolved.

G. Lobbying with appropriated funds. Historic Preservation Fund grants must conform to provisions of 18 USC 1913: "No part of the money appropriated by any enactment of Congress shall, in the absence of express authorization by Congress be used directly or indirectly to pay for any personal services, advertisement, telegram, telephone, letter, printed or written matter, or other device, intended or designed to influence in any manner a Member or Congress, through the proper official channels, requests for legislation OPR appropriation which they deem necessary for the efficient conduct of the public business." Thus, costs associated with activities to influence legislation pending before the Congress, commonly referred to as "lobbying," are unallowable as charges to NPS assisted grants.

H. The City must submit acceptable Federal and non-Federal share supporting documentation prior to reimbursement.

I. In addition to the terms detailed in this grant agreement, all Federal requirements governing grants (Office of Management and Budget Circulars A-87 or A-122, A-102 or A-110, and A-128) are applicable.

VIII. PUBLICATIONS AND PUBLIC INFORMATION

An acknowledgment of National Park Service and Arkansas Historic Preservation Program support must be made in connection with the publication of any material based on, or developed under, any activity supported by Historic Preservation Fund grant funds. This acknowledgment shall be in the form of a statement as follows: *The activity which is the subject of this (type of publication) has been financed (in part/entirely) with Federal funds from the National Park Service, Department of the Interior, administered through the Arkansas Historic Preservation Program, an agency of the Department of Arkansas Heritage. However, the contents and opinions do not necessarily reflect the views or policies of the Department of the Interior, nor does the mention of trade names or commercial products constitute endorsement or recommendation by the Department of the Interior or the Arkansas Historic Preservation Program.*

Press releases, publications, and other public dissemination of information by the City made possible by a grant shall acknowledge National Park Service, Department of the Interior and Arkansas Historic Preservation Program, Department of Arkansas Heritage grant support. A minimum of eight copies of any publication will be furnished by the Preservation Program will transmit three copies to the Department of the Interior Library, one copy to the National Park Service, Divisions of Personnel and Management, and one copy to the Office of Communications. The remainder will be placed in the Arkansas Historic Preservation Program files.

All printed material (publications, brochures, etc.) will be printed on recycled paper using soybean ink in accordance with Executive Proclamation Order #90-1.

IX. LIMITATION OF LIABILITY

The AHPP assumes no responsibility with respect to accidents, illness or claims arising out of any work performed under a subgrant supported project. The City is expected to take necessary steps to insure itself and its personnel and students and to comply with the applicable local, State, or Federal safety standards, including those issued pursuant to the National Occupational Safety and Health Act of 1970 (see 20 SFR 1910).

X. PROJECT CANCELLATION

Approved projects may be canceled for one or more of the following reasons:

A. The City requests project cancellation.

B. The City fails to initiate project work.

C. The City initiates work prior to receipt of written notification of project approval.

D. Project work is found not to be in conformance with conditions as stated in the grant agreement.

XI. AMENDMENTS

This agreement may be amended upon written request and approval by both parties

XII. APPROVAL OF AHPP

The City of Fayetteville is aware that this grant is contingent upon approval of the AHPP and the availability of funds; and agrees that no work will begin on the project until written approval from the AHPP is received.

SIGNATURES

____________________ Frances McSwain Director, Arkansas Historic Preservation Program Deputy State Historic Preservation Officer	____________________ City of Fayetteville Signature
	____________________ Name (printed)
	____________________ Title
____________________ Date	____________________ Date

City of Fayetteville Item Review Form

2014-0244

Legistar File Number

June 17, 2014

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

Connie Edmonston
Submitted By

Parks & Recreation
Department

Action Required:

Approval of a resolution to establish the "Fayetteville Natural Areas Preservation Account" and to recognize the receipt of $4,700 distribution this year and the distributions for the two succeeding years to be used to help complete the $300,000 commitment from the Fayetteville Natural Heritage Association towards the purchase of Mt. Kessler.

Does this item have a cost? No

		Fayetteville Natural Areas Preservation
Cost of this request	Category or Project Budget	Program or Project Name
1010.1537.00		
Account Number	Funds Used to Date	Program or Project Category
	$0.00	General
Project Number	Remaining Balance	Fund Name

Budgeted Item? No **Budget Adjustment Attached?** No

V20130812

Previous Ordinance or Resolution # 40-14

Original Contract Number:

ENTERED 6/24/14

ENTERED 6/24/14

Comments:

6-2-14

Paul A. Becker 6-3-2014

6-3-2014

CITY OF
Fayetteville
ARKANSAS

CITY COUNCIL AGENDA MEMO

MEETING OF JUNE 17, 2014

TO: Mayor and City Council

THRU: Don Marr, Chief of Staff

FROM: Connie Edmonston, Parks and Recreation Director

DATE: May 30, 2014

SUBJECT: Approval of a resolution to establish the "Fayetteville Natural Areas Preservation Account" and to recognize the receipt of $4,700 distribution this year and the distributions for the two succeeding years to be used to help complete the $300,000 commitment from the Fayetteville Natural Heritage Association towards the purchase of Mt. Kessler.

RECOMMENDATION:
Approval of a resolution to establish the "Fayetteville Natural Areas Preservation Account" and to recognize the receipt of $4,700 distribution this year and the distributions for the two succeeding years to be used to help complete the $300,000 commitment from the Fayetteville Natural Heritage Association towards the purchase of Mt. Kessler.

BACKGROUND:
The Fayetteville Natural Areas Foundation was created by Dr. and Mrs. Pete Heinzelmann, and Duane and Judy Woltgen. The mission of the foundation is as follows:

> "Dedication to conserving the natural areas of Fayetteville and its environs for the benefit of present and future generations."

This foundation is managed by the Endeavor Foundation. The foundation's distributions will be paid into the City of Fayetteville's account named as Fayetteville Natural Areas Preservation Account. These funds may only be used by our City to purchase land appropriate for nature preserves and/or conservation easements. The land must be used for "passive recreation such as nature study, biking, hiking, walking, and boating, which may include areas along rivers and streams or lakes such as Lake Fayetteville." In addition, the funding may be used for onsite kiosks and signage. These funds may not be used for organized sport recreational areas or support facilities such as bathrooms or parking lots. Support facilities such as public access points and /or trailheads with restroom/parking may be constructed on the property utilizing other funding sources.

The Fayetteville Natural Areas Foundation funds may only be used for up to one-third of the cost of the land. The City's two-thirds funding match required by the foundation may only be used for the cost of land or conservation easement. The City must pay for all surveying and appraisal costs. See the attached Designated Fund Agreement - Statement of Donor's Intent, as included as Exhibit B in the resolution.

DISCUSSION:
The Fayetteville Natural Areas Foundation requests that their $4,700 distribution to the City of Fayetteville for this year and the distributions for the two succeeding years be used to help complete the $300,000 commitment from the Fayetteville Natural Heritage Association (FNHA) toward the purchase of Mt. Kessler. The $4,700 check from the foundation has been received by the City for the 2014 distribution. The 2015 and 2016 distribution amounts are unknown at this time. The Foundation accepts donations from citizens who wish to contribute to the mission of conserving natural areas in Fayetteville.

BUDGET/STAFF IMPACT:
This funding will help in the purchase of Mt. Kessler and with other land purchases in the future. As land is added into our parks system, there will be an impact on staff, maintenance and other operational expenses for the Parks and Recreation Department.

Attachments:
Resolution including Exhibit B: Designated Fund Agreement – Statement of Donor's Intent
Donor's Request
Resolution No. 40.14 – Mt. Kessler Acquisition

DEPARTMENTAL CORRESPONDENCE

OFFICE OF THE
CITY ATTORNEY

Kit Williams
City Attorney

Blake Pennington
Assistant City Attorney

Patti Mulford
Paralegal

TO: **Mayor Jordan**
City Council

CC: **Don Marr,** Chief of Staff
Paul Becker, Finance Director
Jeremy Pate, Development Services Director
Connie Edmonston, Parks & Recreation Director
Marsha Hertweck, Accounting Director

FROM: **Kit Williams,** City Attorney

DATE: **May 14, 2014**

RE: **Resolution to establish Fayetteville Natural Areas Preservation Account**

Dr. and Mrs. Pete Heinzelmann (and probably other generous citizens) wish to have the City establish a Fayetteville Natural Areas Preservation Account into which they and others can donate. The purposes and limited possible uses of the Preservation Account are described on Exhibit B "Statement of Donor's Intent" which is attached.

I have drafted a Resolution to establish this account to which I also propose to attach Exhibit B. This account will likely become very substantial in the future and provide vital funds that could be used by the City to partially acquire and preserve Fayetteville Natural Areas. Since these would be most likely to be used to acquire natural park areas, I suggest Connie begin an Agenda Item recommending that the City Council approve the attached Resolution.

RESOLUTION NO. ______

A RESOLUTION TO ESTABLISH THE "FAYETTEVILLE NATURAL AREAS PRESERVATION ACCOUNT" AND TO ESTABLISH REQUIREMENTS FOR DISBURSALS THEREFROM

WHEREAS, generous Fayetteville area citizens wish to help the City preserve natural areas within Fayetteville for the use and enjoyment of future generations; and

WHEREAS, these donors wish to direct their donations into a specific "Fayetteville Natural Areas Preservation Account" which is only accessible under specified conditions for specified purposes.

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 establishes the "Fayetteville Natural Areas Preservation Account" within the General Fund and agrees that such funds may only be used by the City of Fayetteville as specified on Exhibit B **Statement of Donor's Intent** (attached).

PASSED and **APPROVED** this 17th day of June 2014.

APPROVED:

By: ____________________________
LIONELD JORDAN, Mayor

ATTEST:

By: ____________________________
SONDRA E. SMITH, City Clerk/Treasurer

COPY

DESIGNATED FUND AGREEMENT
EXHIBIT B
STATEMENT OF DONOR'S INTENT
Revised 05/13/2014

Mission of the Fayetteville Natural Areas Foundation ("the Foundation"): Dedicated to conserving the natural areas of Fayetteville and its environs for the benefit of present and future generations.

Land Usage: It is the donors' intent that the grant distributions be used by the City of Fayetteville to purchase land appropriate for nature preserves and/or conservation easements on similar types of land. This land would be used for passive recreation such as nature study, biking, hiking, walking, and boating, which may include areas along rivers and streams or lake areas such as Lake Fayetteville. Other uses may include onsite informational kiosks and other onsite signage. Grant distributions shall not be used for organized sport recreational areas or support facilities such as bathrooms or parking lots. Support facilities such as public access points and/or trailheads with restroom/parking may be constructed by the City with other funding.

Grant Amount and Matching Calculations: The grant distributions may only be used for up to one-third (33.33%) of the cost of the land. The City must bear the cost of surveying and appraisal. Only land cost or the cost of conservation easements are considered as part of the City's match; all other project costs are precluded from match considerations.

Operation: Distributions from the Foundation should go to the Fayetteville Natural Areas Preservation Account, which is held by the City of Fayetteville. Distributions should go to the attention of the City of Fayetteville's Accounting Director.

Peter R. Heinzelman
Donor 1 Signature

May 13, 2014
Date Signed

Margaret E. Heinzelman
Donor 2 Signature (if applicable)

May 13, 2014
Justin Fletcher
Vice President, Programs and Development

City of Fayetteville
ATT: Fayetteville Parks and Recreation Department
113 West Mountain Street
Fayetteville, AR 72701

May 28, 2014

Dear Mrs. Edmonston,

The Fayetteville Natural Areas Foundation donors request that their $4,700 distribution to the City of Fayetteville for this year and the distributions for the two succeeding years be used to help complete the $300,000 commitment from the Fayetteville Natural Heritage Association (FNHA) toward the purchase of Mt. Kessler. We hope the creation of this foundation will encourage citizens to donate to conserve Mt. Kessler, as well as other natural areas of Fayetteville for our citizens to enjoy today, and to leave for future generations.

Sincerely,

Peter R. Heinzelmann

Peter R. Heinzelmann

Margaret E. Heinzelmann

Margaret E. Heinzelmann

RESOLUTION NO. 40-14

A RESOLUTION TO AUTHORIZE MAYOR JORDAN TO APPLY FOR AND ACCEPT A 50/50 MATCHING GRANT FROM THE WALTON FAMILY FOUNDATION IN THE AMOUNT OF $1,500,000.00, TO USE THIS GRANT AND $1,600,000.00 OUT OF RESERVES TO PURCHASE ABOUT 328 ACRES OF MT. KESSLER FROM CHAMBERS BANK AND TO BUILD A TRAILHEAD, TO APPROVE A LAND SWAP WITH CHAMBERS BANK, TO SUPPORT A PARKLAND DEDICATION OF ABOUT 48 ACRES FOR FUTURE PARKLAND CREDIT AND TO APPROVE THE ATTACHED BUDGET ADJUSTMENT

WHEREAS, the City of Fayetteville has a unique opportunity to work with the Walton Family Foundation, Fayetteville Natural Heritage Association and Chambers Bank to acquire and preserve 376 acres of Mt. Kessler for $3,000,000.00 and parkland dedication so that the Regional Park will grow to almost 600 contiguous acres of amenities running the gamut from developed sports fields to mountain biking and nature trails; and

WHEREAS, the City will also need to spend about $100,000.00 from reserves to develop a public trailhead for the many nature, hiking, biking and recreational trails already established and to be established and enhanced as part of the Regional Park.

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 City of Fayetteville application for the 50/50 matching grant with the Walton Family Foundation, extends its deepest appreciation and gratitude to the Walton Family Foundation for this grant, agrees to accept and match this $1.5 million donation with City funds from reserves, agrees to use this Three Million Dollars to purchase about 328 acres from Chambers Bank, agrees to build the public trailhead for about $100,000.00 from reserves and authorizes Mayor Jordan to sign all necessary documents and agreements necessary to accomplish this grant, purchase and project.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby agrees to support and recommend that the Fayetteville Planning Commission accept a parkland dedication of about 48 acres by Chambers Bank to be used for future parkland credit.

Section 3: That the City Council of the City of Fayetteville, Arkansas hereby agrees to swap those parcels of City land with Chambers Bank for the Chambers Bank parcels and trail easements all as identified on the map attached to this Resolution as Exhibit A.

Section 4: That the City Council of the City of Fayetteville, Arkansas hereby approves the attached Budget Adjustment recognizing grant revenue of $1.5 million from the Walton Family Foundation and expenditures of $3.1 million for purchase of the Mt. Kessler property and construction on the trailhead.

PASSED and **APPROVED** this 18th day of February, 2014.

APPROVED:

By: Lioneld Jordan

LIONELD JORDAN, Mayor

ATTEST:

By: Sondra E. Smith

SONDRA E. SMITH, City Clerk/Treasurer

CITY CLERK / TREASURER CITY OF FAYETTEVILLE ARKANSAS WASHINGTON COUNTY

City of Fayetteville Item Review Form

2014-0243

Legistar File Number

June 17, 2014

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

Chris Brown
Submitted By

Development Services
Department

Action Required:

A Resolution to Approve a Payment of $3.5 Million to the Arkansas State Highway and Transportation Department.

Does this item have a cost? Yes

$3,500,000.00	$28,612,500.00	Transportation Bond Street Impts
Cost of this request	Category or Project Budget	Program or Project Name
4520.9555.5809.00	$8,520,036.00	Street Improvements
Account Number	Funds Used to Date	Program or Project Category
06035.2200	$16,592,464.00	Street Sales Tax 2013
Project Number	Remaining Balance	Fund Name

Budgeted Item? Yes **Budget Adjustment Attached?**

V20130812

Previous Ordinance or Resolution # 18-11

ENTERED 5/30/14 DM

ENTERED 6/2/14

Original Contract Number:

Comments:

6/2/14

Paul A. Becker 6-2-2014

6-2-2014

CITY OF
Fayetteville
ARKANSAS

CITY COUNCIL AGENDA MEMO

MEETING OF JUNE 17, 2014

TO: Mayor and City Council

THRU: Don Marr, Chief of Staff
Jeremy Pate, Development Services Director

FROM: Chris Brown, City Engineer

DATE: May 30, 2014

SUBJECT: Resolution to Approve a Payment of $3.5 Million to the Arkansas Highway and Transportation Department

---

RECOMMENDATION:
Staff recommends approval of the resolution authorizing payment of $3.5 million to the Arkansas Highway and Transportation Department, as requested by the AHTD. The Transportation Committee reviewed this proposal at the May 27, 2014 meeting and also recommends approval.

BACKGROUND:
The Transportation Bond Program, approved by voters in 2006, consists of approximately $65.9 million in bonds that are to be repaid by a dedicated sales tax, and approximately $24.5 million in state and federal funding.

The Highway 112 (Garland Avenue) Project, from North Street to Melmar, is included in the City's Transportation Bond Program, with an original budget of $5.2 million. The City has a partnership agreement with the Arkansas Highway and Transportation Department (AHTD) that obligates the City to pay 50% of the construction cost, up to $1.5 million, and all of the right of way acquisition and utility relocation costs. The current estimate for the City's obligation is $4.2 million.

In 2011, due to a cash flow issue in the bond program, the AHTD allowed the City to defer payment on the Highway 112 project by transferring the City's obligation to a future AHTD project planned at Highway 112 and the I-49 (then I-540) interchange. The City Council by Resolution 18-11 (attached) accepted the AHTD's proposal.

DISCUSSION:
Payment of the City's approximately $4.2 million obligation was expected to be required in 2013; however, due to delays in the Hwy 112/I-49 interchange project, payment is not expected to be required until mid-2015. This delay has created another problem related to the bond program funds, in that the funds from a bond issue must be spent in a timely manner to avoid potential IRS penalties. Therefore, staff requested that the AHTD invoice the City for a portion of our

obligation so that we can spend these funds that have been allocated to the Highway 112 project.

BUDGET/STAFF IMPACT:
This project is budgeted through the Transportation Bond Program, and adequate funds are available for this payment.

Attachments:
Resolution 18-11
Copy of Letter from AHTD requesting payment.

RESOLUTION NO. ______

A RESOLUTION TO AUTHORIZE A PAYMENT OF $3,500,000.00 TO THE ARKANSAS STATE HIGHWAY AND TRANSPORTATION DEPARTMENT REPRESENTING AN INITIAL PAYMENT OF THE CITY'S PORTION OF CONSTRUCTION, RIGHT OF WAY ACQUISITION AND UTILITY RELOCATION COSTS RELATED TO THE WIDENING OF HIGHWAY 112

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 payment of $3,500,000.00 to the Arkansas State Highway and Transportation Department representing an initial payment of the City's portion of construction, right of way acquisition, and utility relocation costs related to the widening of Highway 112.

PASSED and **APPROVED** this 17th day of June, 2014.

APPROVED:

By: ______________________________
LIONELD JORDAN, Mayor

ATTEST:

By: ______________________________
SONDRA E. SMITH, City Clerk/Treasurer

ARKANSAS STATE HIGHWAY AND TRANSPORTATION DEPARTMENT

Scott E. Bennett
Director
Telephone (501) 569-2000
Voice/TTY 711

P.O. Box 2261
Little Rock, Arkansas 72203-2261
Telefax (501) 569-2400
www.arkansashighways.com

May 26, 2014

The Honorable Lioneld Jordan
Mayor of Fayetteville
113 West Mountain Street
Fayetteville, AR 72701

Re: Job BB0414
F.A.P. IM-NHPP-540-1(262)66
Porter Rd.-Hwy. 112/71B Widening
& Intchng. Impvts. (F)
Washington County

Dear Mayor Jordan:

As you are aware, the City has transferred their partnering commitment from Job 040489 to provide $1.5 million for construction and to pay for the Right-of-Way acquisition and Utility Relocation costs to the referenced project.

The development of right of way plans is nearing completion, and appraisals and acquisitions are scheduled to begin this fall. Utility adjustments should then begin in early-2015. If utility adjustments are completed in a timely manner, the project should be ready to let to contract by mid-2015.

At this time, the Department requests an initial payment in the amount of $3,500,000.00 from the City for this project. Please submit a check in the amount of $3,500,000.00 (made payable to the Arkansas State Highway and Transportation Department) to this office.

If you have any questions, please contact Carlos Meredith in our Programs and Contracts Division at (501) 569-2261.

Sincerely,

Lorie H. Tudor

for Ralph J. Hall
Deputy Director and
Chief Engineer

c: Assistant Chief Engineer-Planning
Programs and Contracts
Transportation Planning and Policy
Fiscal Services (2)
Right of Way
District 4
Job BB0414 'C' File
Mr. Chris Brown, Fayetteville City Engineer

RESOLUTION NO. 18-11

A RESOLUTION TO EXPRESS THE AGREEMENT OF THE CITY COUNCIL TO ACCEPT THE ARKANSAS HIGHWAY AND TRANSPORTATION DEPARTMENT'S OFFER TO TRANSFER SOME OF THEIR MONEY DESIGNATED FOR THE HIGHWAY 112 AND 71B INTERCHANGE PROJECT TO COMPLETE THE GARLAND AVENUE WIDENING AND IMPROVEMENT PROJECT IF THE CITY TRANSFERS ITS GARLAND AVENUE COMMITMENT TO THE HIGHWAY 112 AND 71B INTERCHANGE PROJECT SCHEDULED FOR 2013

WHEREAS, substantial additional funds are needed for the completion of the Garland Avenue widening and improvement project; and

WHEREAS, if these additional funds cannot be supplied, state and federal money committed to this project could be lost; and

WHEREAS, the Arkansas State Highway and Transportation Department through a January 11, 2011 letter to Mayor Jordan (attached) proposes that this additional necessary money could be transferred from the scheduled Highway 112 and Highway 71B interchange if the City agrees to transfer its financial commitment from Garland project to the Highway 112 and Highway 71B interchange project which is scheduled for 2013; and

WHEREAS, such an agreement to transfer the City's financial commitment ensures that federal and state funding pledged to the Garland Avenue project will not be lost.

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 agrees to accept the Arkansas Highway and Transportation Department's offer to transfer some of their money designated for the Highway 112 and 71B interchange project in order to complete the Garland Avenue widening and improvement project if the City transfers its Garland Avenue project commitment to the Highway 112 and 71B interchange project scheduled for 2013 and authorizes Mayor Jordan to sign any agreement needed to effectuate this proposal.

PASSED and **APPROVED** this 18th day of January, 2011.

APPROVED:

By: *[signature]*
LIONELD JORDAN, Mayor

ATTEST:

By: *[signature]*
SONDRA E. SMITH, City Clerk/Treasurer

CITY CLERK/TREASURER CITY OF FAYETTEVILLE ARKANSAS WASHINGTON COUNTY

Fayetteville ARKANSAS
www.accessfayetteville.org

THE CITY OF FAYETTEVILLE, ARKANSAS
DEPARTMENT CORRESPONDENCE

CITY COUNCIL AGENDA MEMO

Council Meeting of January 18, 2011

To: Mayor and City Council

Thru: Don Marr, Chief of Staff
Jeremy Pate, Development Services Director

From: Chris Brown, City Engineer CB

Date: January 11, 2011

Subject: A Resolution to Express the Agreement of the City Council to Accept the Arkansas Highway and Transportation Department's Offer to Complete the Garland Avenue Widening and Improvement Project if the City Transfers its Garland Avenue Commitment to the Highway 112 and Hwy 71B Interchange Project Scheduled for 2013

PROPOSAL

The Transportation Bond Program, approved by voters in 2006, consists of approximately $65.9 million in bonds that are to be repaid by a dedicated sales tax, and approximately $24.5 million in state and federal funding. Because of the pay back capacity of the sales tax dedicated for this program, the bonds were scheduled to be issue in 3 phases: $24.5 million in 2006, $9.5 million in 2009, and the balance of $31.9 million in 2014.

The Highway 112 (Garland Avenue) Project, from North Street to Melmar, is included in the City's Transportation Bond Program, with a budget of $5.2 million. The City has a partnership agreement with the Arkansas Highway and Transportation Department (AHTD) that obligates the City to pay 50% of the construction cost, up to $1.5 million, and all of the right of way acquisition and utility relocation costs.

We recently received a letter from AHTD (dated November 12, 2010) requesting a commitment from the City to move forward with the project, so that right of way could be completed, and utility relocations underway, by September 2011. In the letter, AHTD indicates that the construction cost estimate has increased to $3.9 million from $3 million, and offers to cover the additional $900,000 in costs if the City can meet the right of way acquisition deadline of September 2011 so that their construction funds can be obligated in their 2011 fiscal year.

In order for the City to comply with this request, the full $5.2 million allocated for this project would be needed by September 2011. In accordance with a schedule established in 2007, funding for the project is split over the last two bond issues, which means that the project will not be fully funded until the 3rd bond issue in 2014. Therefore, we have a funding gap on this project until 2014.

This funding gap issue was communicated to AHTD, and they have responded with a proposal that will allow the Highway 112 project to proceed without delay, while allowing the City to defer payment of the funds we agreed to pay on the project until September 2013. Under this arrangement, the City's obligation under the Highway 112 project will be transferred to another project, identified by AHTD as Job 040584, Highway 112 and Hwy 71B Interchanges Interim Impvts., with payment due on this project by September 2013.

RECOMMENDATION
Staff recommends approval of a resolution agreeing to the proposal presented by AHTD.

BUDGET IMPACT
The estimated budget impact totals $5.2 million. Currently, $1.5 million is available in the Bond Program; funding source(s) of the remainder are to be determined by 2013, but include a small Bond Issue through the Transportation Bond Program.

RESOLUTION NO. 102-06

A RESOLUTION EXPRESSING THE WILLINGNESS OF THE CITY OF FAYETTEVILLE TO PARTICIPATE IN PARTIAL FUNDING OF THE PROPOSED WIDENING OF HIGHWAY 112 FROM HIGHWAY 112 SPUR NORTH.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas, hereby expresses its willingness to participate in the partial funding of the proposed widening of Highway 112 from Highway 112 Spur north (Wedington Drive to Melmar Street).

Section 2. That the City Council of the City of Fayetteville, Arkansas, hereby expresses its willingness to pay 50% of the construction cost for this project up to a maximum of $1,500,000.00, and 100% of costs associated with right-of-way acquisition and utility adjustments .

PASSED and **APPROVED** this 6th day of June, 2006.

APPROVED:

By: Dan Coody
DAN COODY, Mayor

ATTEST:

By: Sondra Smith
SONDRA SMITH, City Clerk

CITY CLERK/TREASURER • CITY OF • FAYETTEVILLE • ARKANSAS • WASHINGTON COUNTY

ARKANSAS STATE HIGHWAY AND TRANSPORTATION DEPARTMENT

Dan Flowers
Director
Phone (501) 569-2000 Fax (501) 569-2400

P.O. Box 2261
Little Rock, Arkansas 72203-2261
WWW.ARKANSASHIGHWAYS.COM

January 11, 2011

The Honorable Lioneld Jordan
Mayor of Fayetteville
113 West Mountain
Fayetteville, AR 72701

Dear Mayor Jordan:

Reference is made to our recent discussion regarding the City's partnering commitment for improvements to Highway 112 extending north of the North Street/Highway 112 Spur intersection in Fayetteville (Job 040489).

While we cannot proceed with the project and allow the City to defer payment until Fiscal Year (FY) 2013, we are willing to proceed with the project in FY 2011 using Federal-aid funds and State match and transfer the City's commitment to Job 040584, Hwy. 112 & Hwy. 71B Interchanges Interim Impvts. (Fayetteville). This project is currently scheduled for FY 2013 and is estimated to cost approximately $11.8 million (construction only). The City's partnering commitment for Job 040584 would be for the actual cost of right of way acquisition and reimbursable utility adjustments plus the $1.5 million commitment for construction on Job 040489.

If transferring the City's current partnering commitment on Job 040489 to Job 040584 is acceptable, please advise and we will prepare the necessary agreements to confirm this commitment.

If you have any questions, please advise.

Sincerely,

Frank Vozel
Deputy Director and
Chief Engineer

c: Commissioner Dick Trammel
Director
Assistant Chief Engineer-Planning
Assistant Chief Engineer-Design
Right of Way
Roadway Design
Programs and Contracts
District 4
Chris Brown, City Engineer

ARKANSAS STATE HIGHWAY AND TRANSPORTATION DEPARTMENT

RECEIVED
NOV 15 2010
CITY OF FAYETTEVILLE
MAYOR'S OFFICE

Dan Flowers
Director
Phone (501) 569-2000 Fax (501) 569-2400

P.O. Box 2261
Little Rock, Arkansas 72203-2261
WWW.ARKANSASHIGHWAYS.COM

November 12, 2010

The Honorable Lioneld Jordan
Mayor of Fayetteville
113 West Mountain
Fayetteville, AR 72701

Dear Mayor Jordan:

Reference is made to your September 9, 2010 letter requesting an updated cost estimate for the proposed reconstruction and widening of Highway 112 in Fayetteville.

In accordance with my September 28, 2010 response to you, plan revisions and an updated cost estimate have been made. The construction cost is now estimated to be approximately $3.9 million.

In your letter you noted that the City has committed to pay for all right of way and utility costs and for $1.5 million of the construction costs. The Department has committed to pay for preliminary and construction engineering and $1.5 million for construction. Therefore, in order to complete the entire project, approximately $900,000 of additional funds will be needed for construction. The Department is willing to fund this additional amount provided the City acquires the right of way and begins the utility relocation by September 1, 2011. This will allow us to include the project in the FY 2011 construction program. If this is acceptable to the City, the right of way process can begin.

If you have any questions or need additional information, please contact Phil McConnell at (501) 569-2301.

Sincerely,

Frank Vozel
Deputy Director and
Chief Engineer

c: Commissioner Dick Trammel
Director
Assistant Chief Engineer-Design
Assistant Chief Engineer-Planning
Roadway Design
Right of Way
Environmental

City of Fayetteville Item Review Form

2014-0246

Legistar File Number

June 17, 2014

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

Don Marr	Mayor's Office
Submitted By	**Department**

Action Required:

A Resolution approving a Lease between the University of Arkansas, the City of Fayetteville and the Walton Arts Center Council, Inc.

Does this item have a cost? No

Cost of this request	Category or Project Budget	Program or Project Name
Account Number	Funds Used to Date	Program or Project Category
	$0.00	
Project Number	Remaining Balance	Fund Name

Budgeted Item?

Budget Adjustment Attached?

V20130812

Previous Ordinance or Resolution # ______

Original Contract Number: ______

ENTERED 5/30/14

Comments:

June 3, 2014

6-3-14

6-3-2014

CITY OF
Fayetteville
ARKANSAS

STAFF MEMO

TO: City Council Members

THRU: Mayor Jordan L.J.
Kit Williams, City Attorney Kit

FROM: Don Marr, Chief of Staff DM

DATE: May 30, 2014

SUBJECT: **2014-0246 Lease Renewal with the Walton Arts Center Council Inc.**

RECOMMENDATION:
Staff recommends approval of the of the resolution to renew the lease between the University of Arkansas, the City of Fayetteville and the Walton Arts Center Council Inc.

BACKGROUND:
See the City Attorney Memo dated May 15th, 2014 for the history and specific details of this request. The Memo is attached within this packet to this Staff Memo for the Agenda Item

DISCUSSION:
Pulled excerpts from the City Attorney Memo of 5/15/2014:

The newly proposed Lease Agreement:

(A) The current twenty-five year Lease Agreement of 1992 (which would expire on March 30, 2017, subject to renewal options of the Walton Arts Center) has been amended and restated and set to begin again a new 25 year term.

(B) Requires the Walton Arts Center to begin a capital fundraising campaign to renovate and enlarge the Walton Arts Center on Dickson Street.

(C) Removed the area of the Parking Deck from the lease to ensure the City can manage and receive parking revenue (pledged to the Parking Revenue Bond) for the parking deck (build by those bonds).

(D) Warrants that the Walton Arts Center Council, Inc. shall at all times during the term, shall **operate, manage and maintain** the Walton Arts Center on Dickson Street in a manner that is generally commensurate with the quality and quantity of performances and activities occurring prior to 2013. In determining whether this standard is met, the City and the University of Arkansas may take into account the quality, type and number of performance and activities occurring at the Dickson Street facility, including the quality, type and number of Broadway Musicals & performances, other theatrical, dance and musical performances; concert performances and educational programs

BUDGET/STAFF IMPACT:
There is no staff or additional budgetary impact from this Lease change

Attachments:
City Attorney Memo May 15, 2014
Walton Arts Center Council, Inc. Memorandum May 30, 2014
New Lease Agreement between the University of Arkansas, the City of Fayetteville and the Walton Arts Center Council Inc.

OFFICE OF THE
CITY ATTORNEY

DEPARTMENTAL CORRESPONDENCE

Kit Williams
City Attorney

Blake Pennington
Assistant City Attorney

Patti Mulford
Paralegal

TO: **Mayor Jordan**
City Council

CC: **Don Marr,** Chief of Staff
Paul Becker, Finance Director

FROM: **Kit Williams,** City Attorney

DATE: **May 15, 2014**

RE: **New Interlocal Agreement with U of A, Governance Documents for Walton Arts Center, and Lease**

INITIAL MEETINGS

About a year ago, representatives from the Walton Arts Center met with Mayor Jordan and requested a very significant change in how the Walton Arts Center would be governed and managed. Mayor Jordan could not agree to this initial proposal which would have removed most of the City's power and authority. However, he wanted to work with our most generous partner, the Walton Family Foundation, in an effort to preserve the Walton Arts Center's vitality, usefulness, and activity that is so important to our Entertainment District and the quality of life for Fayetteville. This goal to preserve the Walton Arts Center's viability has been our constant lodestar through a year of negotiations.

We then had a meeting with the Chancellor, the U of A Legal Counsel Scott Varady, the Chair of the Walton Arts Center Council (Greg Lee) and other members of the WAC Council including Jeff Gearhart. With its planned expansion into Bentonville to build a larger Arts Center auditorium and its movement of the Arkansas Music Pavilion into Rogers, the Walton Arts Center, Inc. needed to change its Articles of Incorporation to broaden its allowed purposes which are currently limited to solely operating and maintaining the Walton Arts Center on Dickson Street.

Mayor Jordan then met with representatives of the Walton Family Foundation who expressed their desire and willingness to help our Walton Arts Center in Fayetteville to continue to thrive, but wished that the WAC Council and WAC Foundation would no longer be denoted as "agents" of the City or University. By law, an agent owes its principals (the City and University) a fiduciary duty of utmost good faith and loyalty. The Walton Arts Center staff and the Walton Family Foundation were concerned that the City or University might someday try to exercise our rights as principals to hinder its planned expansion out of Fayetteville into Bentonville and Rogers.

PRINCIPAL GOALS OF THE CITY

Mayor Jordan was willing to accommodate the desires of the Walton Family Foundation (as the Walton Arts Center's major regular donor) and the Walton Arts Center Council if we received enforceable assurances and commitments to preserve the Dickson Street Walton Arts Center in a manner similar to its use of the last few years. In other words, we believed we should receive legal commitments that once a new and larger facility was constructed in Bentonville, the Walton Arts Center on Dickson Street would not be relegated to second class status without Broadway musicals, etc.

NEGOTIATIONS WITH WALTON ARTS CENTER AND U OF A ATTORNEYS

I met with and worked for several months with U of A Counsel Scott Varady and Walton Arts Center, Inc.'s Counsel Marshall Ney to try to meet everyone's expectations and goals. I consulted frequently with Mayor Jordan and Chief of Staff Don Marr to ensure the proposed changes to the Articles of Incorporation of Walton Arts Center Council, Inc., the Articles of Incorporation of the Walton Arts Center Foundation, Inc., their By Laws, the U of A and City Interlocal Cooperation Agreement, and the new Lease Agreement were acceptable and headed in the right direction.

Please keep in mind that all documents were the result of careful and thoughtful negotiations and compromises. None of the interested parties: (1) The City of Fayetteville; (2) University of Arkansas; (3) Walton Arts Center Council, Inc.; (4) Walton Arts Center Foundation, Inc. or (5) Walton Family Foundation could just dictate a final agreement. We all had to honor each party's legitimate and reasonable concerns. I can now report to you that I believe we have achieved a balanced agreement that satisfies the concerns and wishes of all parties and protects our Walton Arts Center.

SUMMARY OF IMPORTANT CHANGES

(1) The Sixth Amendment to the Articles of Incorporation of the Walton Arts Center Council, Inc.

(A) Removes the designation that the Council is agent of the University and City.

(B) Broadens its "Purposes" Article from only maintaining and operating the Walton Arts Center on Dickson Street to constructing and operating a new Arts facility in Bentonville, the AMP in Rogers, and in cooperation with the U of A possible venues on campus.

(C) Preserves the current level of performances at the Walton Arts Center on Dickson with the following language:

> "To expand and renovate the existing Walton Arts Center in Fayetteville as currently proposed by the Walton Arts Center Council, Inc., and after the construction and opening of the performing arts venue in Bentonville, to continue to obtain funding for, operate, manage and maintain the Walton Arts Center on Dickson Street in a manner that is generally commensurate with the quality and quantity of performances and activities occurring prior to 2013. In determining whether this standard is

met, the City of Fayetteville and the University of Arkansas may take into account the quality, type and number of performances and activities occurring at the Dickson Street facility, including the quality, type and number of: (i) Broadway Musicals and performances; (ii) other theatrical, dance and musical performances; (iii) concert performances and (iv) educational programs."

(D) Preserves the City and University's power to appoint five members each of the nineteen member board of directors and empowers the Walton Family Foundation to appoint the other nine members rather than having these be "self-appointed" by the other board members. This is a good change since all members of the Board of Directors should then be responsible and hopefully responsive to the U of A, City, or Walton Family Foundation.

(2) The Fifth Amendment to the Articles of Incorporation of the Walton Arts Center Foundation, Inc.

(A) Broadens its purposes from fundraising solely for the Walton Arts Center on Dickson Street to fundraising for the proposed Bentonville facility, Rogers AMP, etc.

(B) Authorizes the Foundation to return the initial deposit of $1.5 million dollars of City General Funds to begin the Foundation to the City to be used to help pay for the Parking Deck, the Walton Arts Center headquarters building, the expansion project or other needs. Once this $1.5 million is returned to the City, the Foundation no longer needs to be our agent for constitutional reasons and its agency status will be terminated.

(C) Removes the never used (and probably never usable) power of the U of A Chancellor or Fayetteville Mayor to basically veto the entire annual budget of the Foundation and Council.

(3) Lease Agreement.

The original twenty five year Lease Agreement of 1992 (which would expire on March 30, 2017, subject to renewal options of the Walton Arts Center) has been amended, restated and basically set to begin again upon its approval for a new 25 year term.

(A) Establishes from its new 25 year term which will not end until 2039.

(B) Requires the Walton Arts Center to begin a capital fundraising campaign to renovate and enlarge the Walton Arts Center on Dickson Street.

(C) Removes the area of the Parking Deck from the lease to ensure the City can manage and receive parking revenue (pledged to the Parking Revenue Bond) for the parking deck (built by those bonds).

(D) Warrants that the Walton Arts Center Council, Inc.

> "(a)t all times during the Term, shall operate, manage and maintain the Walton Arts Center on Dickson Street in a manner that is generally commensurate with the quality and quantity of performances and activities occurring prior to 2013. In determining whether this standard is met, the City of Fayetteville and the University of Arkansas may take into account the quality, type and number of performance and activities occurring at the Dickson Street facility, including the quality, type and number of: (i) Broadway Musicals and performances; (ii) other theatrical, dance and musical performances; (iii) concert performances and (iv) educational programs."

COOPERATION WITH U OF A
(City Attorney's Update to May 15th Memo)

Rather than a quitclaim deed, the University is willing to supply the City a long term lease for the parking deck area for nominal consideration. This prevents some fire code issues and ensures the City's management rights for the parking deck.

RESOLUTION NO. ______

A RESOLUTION TO APPROVE AN AMENDED AND RESTATED LEASE AGREEMENT AMONG THE UNIVERSITY OF ARKANSAS AND CITY OF FAYETTEVILLE AS LANDLORDS AND THE WALTON ARTS CENTER COUNCIL, INC. AS TENANT

WHEREAS, the University, City of Fayetteville and Walton Arts Center Council, Inc. agreed to a 25 year lease to be effective on April 1, 1992 for the Walton Arts Center; and

WHEREAS, in 2001 the Walton Arts Center Council, Inc. deeded the parcel for the Nadine Baum building to the City of Fayetteville and University of Arkansas; and

WHEREAS, it is in the best interests of the Citizens, Businesses and City of Fayetteville to amend and restate the Original Lease Agreement to ensure that the Walton Arts Center on Dickson Street will continue to be operated, managed and maintained "in a manner that is generally commensurate with the quality and quantity of performances and activities occurring prior to 2013;" and

WHEREAS, the Amended and Restated Lease Agreement together with proper amendments to the Articles of Incorporation of Walton Arts Center Council, Inc. and Walton Arts Center Foundation, Inc. should assist in the campaign to ensure completion of the Walton Arts Center enlargement and enhancement project; and

WHEREAS, the University of Arkansas Board of Trustees, the Walton Arts Center Council, Inc. Board of Trustees and the Walton Arts Center Foundation, Inc. Board of Trustees have approved this Amended and Restated Lease Agreement for the Walton Arts Center.

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 Amended and Restated Lease Agreement attached as Exhibit 1 and authorizes Mayor Jordan to sign this Lease.

PASSED and **APPROVED** this 17th day of June 2014.

APPROVED: ATTEST:

By: ____________________________
LIONELD JORDAN, Mayor

By: ____________________________
SONDRA E. SMITH, City Clerk/Treasurer

May 30, 2014

MEMORANDUM

TO: Mayor Lioneld Jordan
Fayetteville City Council

FROM: Walton Arts Center Council
Greg Lee, Chair

Dear Mayor and Fayetteville City Council Members,

On May 19, 2014, the Walton Arts Center Council and the Walton Arts Center Foundation approved the adoption of amended governance documents as follows for the WAC Council and Foundation:

(a) Fifth Amendment to the Articles of Incorporation of the Walton Arts Center Foundation, Inc.
(b) the Sixth Amendment to the Articles of Incorporation of the Walton Arts Center Council, Inc.
(c) the Amended and Restated Interlocal Cooperation Agreement
(d) the Amended and Restated Bylaws of Walton Arts Center Council, Inc.
(e) the Amended and Restated Lease between the University of Arkansas/City of Fayetteville and Walton Arts Center Council, Inc.

A summary of the effective changes of these documents is attached, as are the draft documents.

The Walton Arts Center Council further recommended that the Walton Arts Center Foundation authorize the return of the City's initial $1.5 million investment to the WAC Foundation as an operating endowment to the City for use in the Spring Street Municipal Parking Deck. The original purpose of the funds was to provide income, through use of their earnings in the endowment, to WAC for operating expenses. The funds have been used in this manner to date. The Walton Arts Center Foundation authorized this return of funds, for reinvestment into the Spring Street Municipal Parking Deck.

As per the existing bylaws, we are requesting approval of the above changes from the City Council and the University of Arkansas Board of Trustees (the UA Trustees approved these amendments at their May 2014 meeting). We ask that the Fayetteville City Council review and approve these documents so that they may take effect.

May 30, 2014

Reasons for the Governance Changes:

Several changes are being proposed to the Governance structure of Walton Arts Center (WAC) in order to clarify existing documents and ensure that WAC can continue to achieve its mandate of serving the arts needs of all residents of Northwest Arkansas. There are two key goals to the changes: 1) ensure clarity and flexibility for WAC to continue to meet growing arts and entertainment desires of the region, and 2) affirm and support the original partnership of the UA and City.

Summary of Document Changes

- **The changes provide WAC and WAC Foundation with:**
  - Absolute clarity around the ability for WAC to expand its programs to other venues throughout NWA;
  - Confirmation that budget and operational oversight rests exclusively with the WAC Council;
  - Removal of the principal/agency relationship that currently exists among WAC, the City and the UA;
  - The WAC Council will continue to have broad regional representation with the acknowledgment of the significant contributions and ongoing support of the Walton Family, with the Walton Family Foundation having appointments to the WAC Council of 9 regional representatives, to serve alongside the City and UA's 5 members appointed respectively.
  - Ability for WAC Council to grow proportionally to 38 members
  - The WAC Foundation will no longer be an agent of the City, and the City will no longer have appointments to the Foundation.

- **In addition, the following protective provisions for the City/UA are included:**
  - The Articles of Incorporation of WAC have been amended to provide assurances regarding the quality and quantity of performances occurring at the Dickson Street facility. The Lease among WAC, the

City and the UA contains an identical covenant. Compliance with these programming assurances can be enforced directly by the City or the UA.

- The City and the UA will collectively appoint a majority of the members of the Board of WAC, with each retaining the right to appoint 5 members (or a total of 10 out of 19).
- While the WAC Council may modify the bylaws from time to time, no changes to the bylaws may be made that are inconsistent with or undermine the protective provisions contained in the Articles of Incorporation.
- The Foundation will return the City's original gift of $1.5 million currently in WAC's operating endowment, and those funds will be reinvested in the parking deck project adjacent to WAC.

- **A New Lease between the City/UA/WAC**
  - WAC has maintained a Lease with the City of Fayetteville and the UA for the Dickson Street facility since 1992. That Lease is scheduled to expire in 2017.
  - In order to ensure the long-term stability and viability of the Dickson Street facility and to support the upcoming major renovation of the facility, WAC, the City, and the UA have proposed a new long-term Lease. The new lease is also needed due to the addition of the municipal parking deck being built on land currently under lease by WAC.
  - The new lease will reflect the changes in the governing documents, specifically providing assurances regarding the quality and quantity of performances occurring at the Dickson Street facility.
  - The term of the new Lease will be for an additional 25 years.

AMENDED AND RESTATED LEASE AGREEMENT

BETWEEN

BOARD OF TRUSTEES OF THE UNIVERSITY OF ARKANSAS FOR THE UNIVERSITY OF ARKANSAS, FAYETTEVILLE, AND THE CITY OF FAYETTEVILLE, ARKANSAS

"Lessor"

and

WALTON ARTS CENTER COUNCIL, INC.

"Lessee"

Table of Contents

Page

Table of Contents
(continued)

AMENDED AND RESTATED LEASE AGREEMENT

This Amended and Restated Lease Agreement is made and entered into this _____ day of ________________, 2014, by and among Board of Trustees of the University of Arkansas for the University of Arkansas, Fayetteville ("**University of Arkansas**"), the City of Fayetteville, Arkansas (the "**City**"), and Walton Arts Center Council, Inc., an Arkansas not-for profit corporation (the "**Walton Arts Center**"). The University of Arkansas and the City are collectively referred to in the singular tense from time to as "**Lessor**", and the Walton Arts Center is referred to as "**Lessee**".

RECITALS:

A. The twenty five (25) year Original Lease Agreement from the City of Fayetteville and the University of Arkansas as the Lessor was effective on April 1, 1992, and leased to Lessee Walton Arts Center lands which included all of Block Six (6) of the Original Plat of the Town of Fayetteville, Arkansas, as per plat on file in the office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas. The Original Lease Agreement was signed by the University of Arkansas on November 24, 1993, the Mayor of the City of Fayetteville after the Fayetteville City Council approval on January 18, 1994, and by Lessee on January 4, 1994. The parcel containing the Nadine Baum building was deeded to the City and the University in 2001 by the Walton Arts Center Council, Inc. Capitalized terms not otherwise defined in this Lease Agreement (as defined below) shall have the meanings given them in the Original Lease Agreement.

B. The Original Lease Agreement expires on March 30, 2017, subject to certain renewal options granted to Lessee.

C. The parties desire to amend and restate the Original Lease Agreement in its entirety so as to, among other things, extend the primary term of the Original Lease Agreement and permit Lessee to begin a fund raising campaign with the intention of renovating, refurbishing, and enlarging, and operating the Premises if successful, to remove from the leased premises that portion of Block Six upon which the City of Fayetteville is to construct a parking deck using citizen approved bond revenues and to add the Nadine Baum building and parcel. The area to be retained by the City includes the entire parking deck site from the west side of the parking deck east to School Avenue and from the north side of the parking deck south to Spring Street except for the north liner building which replaces the Walton Arts Center Administrative Headquarters building.

D. The Original Lease Agreement is hereby amended and restated in its entirety by this Amended and Restated Lease Agreement ("**Lease Agreement**") and shall be effective as of the latest date set forth on the signature page.

E. Within a reasonable period of time from the date Lessor executes this Lease Agreement, Lessee shall begin a capital fund raising campaign to cultivate, develop and solicit donors and the general public for funds to renovate, refurbish, enlarge, and operate the Premises in accordance with the renderings, documents, and drawings attached as Exhibit "B" to this Lease Agreement (the "**Lessee Improvement Work**"). While Lessee will use its best efforts with regard to the capital campaign to pay for the Lessee Improvement Work, Lessee offers no assurances that the campaign will be successful or a timeline for completion of the Lessee Improvement Work. Lessor acknowledges that Lessee may be required to complete the Lessee Improvement Work in phases or stages over several years.

In consideration of the terms and conditions contained herein, the sufficiency of which is acknowledged by Lessor and Lessee, the parties agree as follows:

1. <u>Premises and Improvements Leased.</u> Subject to the terms and conditions set forth in this Lease Agreement, Lessor leases and lets the Premises as referred to in C. and as more particularly described in Exhibit "A" unto Lessee who hereby accepts the Premises.

2. <u>Term.</u> Unless sooner terminated as set forth below, the term of this Lease Agreement ("**Term**") shall be twenty-five (25) years, commencing as of the date Lessor and Lessee execute this Lease Agreement (the "**Lease Commencement Date**") and shall continue through the

last day of the month at 5:00 PM CST in which the twenty-fifth (25^{th}) anniversary of the Lease Commencement Date occurs. At the end of the original Term and subject to Lessor's right to terminate this Lease Agreement, Lessee shall have the option to extend the Term of this Lease Agreement for a period of twenty-five (25) years subject to the terms and conditions herein set forth, provided Lessee is not otherwise in default. Lessor shall have the right to terminate this Lease Agreement by providing written notice of termination to Lessee at least ninety (90) days prior to of the expiration of the original Term. If Lessor does not exercise its right terminate this Lease Agreement by providing written notice to Lessee at least 90 days prior to the expiration of the original Term, then Lessee shall have the right to extend the Term by providing written notice to the Lessor at any time prior to the expiration of the original Term.

3. Rental. As rental for the Premises, within ten (10) business days of the Lease Commencement Date, Lessee shall pay to Lessor in advance the sum of ONE DOLLAR ($1.00) for rental of the Premises for the entire Term. As additional rental, Lessee shall pay in full on a timely basis all costs, expenses, fees, and assessments owed in connection with any Lessee Improvement Work that Lessee may commence. As further consideration for the rental for the Premises, the Walton Arts Center agrees to faithfully perform all of its Representations and Warranties of Lessee contained in Paragraph 37 of this Lease Agreement.

4. Taxes. As additional rental, Lessee shall pay, before they become delinquent, all ad valorem taxes, if any, and special or general assessments, if any, lawfully levied or assessed against the Premises, or which may become a lien against the Premises, or which become due and payable during the term hereof. Upon giving notice to Lessor, Lessee may, in good faith and in the manner provided by law, contest any such tax or assessment against the Premises; provided, all costs and expenses incident to contesting such taxes or assessments shall be paid by Lessee, and Lessee shall:

(i) if necessary to prevent any sale of the Premises or any loss or damage to Lessor, pay such tax or assessment under protest; (ii) in the event of an adjudication adverse to Lessee, promptly pay such tax or assessment; (iii) indemnify and hold Lessor harmless against any losses or damages arising from such contest; (iv) take all such other actions as may be reasonably necessary to prevent any such sale or loss; and (v) before such taxes or assessments become delinquent, deliver to Lessor proof of Lessee's timely and full payment of all such taxes and assessments. The duty of indemnification shall survive the expiration or termination of this Agreement. Additionally, nothing contained in this provision shall be a waiver of Lessor's right, at Lessor's cost, to challenge the imposition of any type or kind of taxes on the Premises.

5. Insurance. Nothing contained herein shall obligate or otherwise require Lessor to procure or maintain any insurance pertaining to the Premises. Lessee will, at its sole cost and expense, at all times, keep the Premises insured under special form policies of fire and extended coverage for its full insurable value, with vandalism, sprinkler leakage, and malicious mischief insurance, and such other additional coverages as may from time to time be designated by Lessor, including, without limitation, all-risk coverage, boiler and machinery insurance, flood insurance, earthquake, and war damage insurance added as endorsements to said insurance policy. This insurance must be maintained with a reliable insurance company or companies licensed to do business in the state of Arkansas. These policies shall also include a replacement cost coverage endorsement and must meet all coinsurance requirements of the insurer, in an amount affording coverage of not less than eighty percent (80%) of the full insurable value of the Premises. Such policy or policies shall provide that coverage is noncancelable without thirty (30) days prior written notice to Lessor.

Lessee further agrees to carry and maintain commercial general liability insurance written as primary coverage with a reliable insurance company licensed to do business in the state of Arkansas, and acceptable to Lessor, covering occurrences that may arise on the Premises as a result of the operations thereon, in amounts not less than $1,000,000 per occurrence for bodily injury and $1,000,000 per occurrence for property damage and $3,000,000 per occurrence of combined bodily injury and property damage. All policies required by this provision shall be jointly payable to the University of Arkansas and the City.

6. Waiver of Subrogation Rights. Lessor and Lessee each hereby waive their respective rights of subrogation against the other for any and all claims and causes of action whatsoever arising out of any injury upon, or loss or damage to, the Premises, or any part thereof, resulting from any risk or peril insured against by any of the insurance policies herein required or purchased by the Lessee. Lessor and Lessee shall each promptly notify their respective insurers of such waiver of subrogation rights.

7. Maintenance by Lessee. Lessee shall, at its sole cost, risk and expense: (i) maintain the Premises in good condition and repair, excepting therefrom only normal, reasonable wear and use; (ii) keep the Premises in a clean, safe and sanitary condition; (iii) make, or cause to be made, all necessary repairs, whether interior, exterior or structural, on the Premises; and (iv) provide for the reasonable care, landscaping and cleaning of the Premises.

8. Utilities. Lessee shall, at its sole cost and expense, provide utilities for the Premises, including without limitation all initial installation or connection fees or charges, and all monthly fees, service charges or late charges for electricity, television, cable, telephones, water, gas, sewer and garbage service, or any other expenses arising out of, or incident to Lessee's occupancy of the Premises; provided, however, Lessor shall, to the best of its ability, continue to furnish on an on-going basis those services to the Premises that it currently provides.

9. Lessee's Improvements and Modifications. Subject to the terms and conditions contained herein, Lessee shall have the right, at its sole cost, expense, and risk: (i) to modify the Premises existing on the Lease Commencement Date hereof in accordance with the Lessee Improvement Work as outlined in Exhibit B attached; and (ii) construct or install on the Premises such other structures, improvements, or fixtures as Lessee may desire in order to continue to satisfy audience and artist demands and so as to remain competitive as an arts center.

10. Surrender of Premises. At the termination under this Lease Agreement or the expiration of the Term: (i) Lessee shall surrender and deliver up to Lessor the Premises in good repair and condition, excepting therefrom only damage by fire, tornado or other casualty and normal, reasonable wear and use; and (ii) all improvements and fixtures, whether existing on the Lease Commencement Date hereof or subsequently constructed on, or affixed to, the Premises, shall be and remain the sole property of Lessor without any payment whatsoever by Lessor to Lessee or any offset in favor of Lessee against Lessor.

11. No Offsets. In the event Lessee shall have any claim whatsoever against Lessor, such claim may not be offset against the rental payments or any other sum payable to Lessor pursuant hereto.

12. Lessee's Use. Lessee shall use and occupy the Premises as an arts center for the residents of Northwest Arkansas and related ancillary support services and educational activities throughout the State of Arkansas; provided, however, certain portions of the Premises may continue to be utilized for general commercial purposes in accordance with applicable laws. At all times Lessee shall conduct its business and control its agents, employees, invitees, licensees, and all other persons entering upon the Premises, or any part thereof, under the authority or by permission of Lessee, in such a manner as is lawful and reputable. Lessee shall not permit, allow or otherwise

suffer any operations to be conducted on the Premises that would cause the suspension or cancellation of the fire and extended coverage insurance policies required under Paragraph 5. Lessee, in the use and occupancy of the Premises, and in the conduct of its business thereon, shall at all times comply with all applicable plat or zoning restrictions, deed restrictions, and all other laws, statutes, ordinances, or regulations applicable to the Premises, and Lessee shall, at its sole cost and expense, secure and maintain all necessary licenses and permits required for the conduct of its business upon the Premises. Lessor shall not permit street vendors to occupy the sidewalks immediately adjacent to the Premises or to operate thereon to the extent Lessor owns and/or possesses the right to control any such sidewalks.

13. Abatement of Lessee's Obligations. Lessee's obligations and duties pursuant to this Lease Agreement, including without limitation its obligations under this Lease Agreement, shall not be abated, terminated or diminished during any period that the Premises, or any part thereof, are untenantable, except as provided in Paragraphs 14, 18 or 19; provided, however, that Lessee shall remain responsible to pay all amounts required to be paid under this Lease Agreement and that became due and owing prior to the events identified in Paragraphs 14, 18 or 19.

14. Restoration of Improvements. In the event any or all improvements to the Premises are either partially or entirely destroyed or damaged by any cause whatsoever, Lessee shall notify Lessor of such loss or damage. Thereafter, Lessee shall, at its sole cost, risk and expense, promptly commence and diligently complete, or cause to be promptly commenced and diligently completed: (i) the removal of any debris on the Premises, salvaging to the extent economically feasible any salvageable or reusable materials remaining thereon, and Lessee shall promptly alleviate any dangerous conditions existing on the Premises as a result of such damage or destruction; and (ii) the repair and restoration of the Premises, so that upon the completion of such repairs and restoration,

the Premises will (a) be suitable for Lessee's use, (b) have a commercial value at least as great as that before such loss or destruction, and (c) retain, to the extent practicable, the same appearance and character. If such loss, damage or destruction results from a casualty covered by one or more policies of casualty insurance, the proceeds of such policies shall, to the extent necessary, be paid to Lessee as reimbursement for its reasonable expenses incurred in the repair and restoration of the Premises; provided, however, prior to the payment to Lessee of the proceeds of such insurance policies, Lessee shall deliver to Lessor satisfactory evidence of the completion of such repairs and restoration, and the cost thereof, and the reasonableness of all such costs. If the proceeds from such insurance policies are insufficient to reimburse Lessee for its expenditures relating to the repair and restoration of the Premises, Lessee alone shall bear all costs of such repairs and restoration which are in excess of the proceeds of such insurance policies. In the event the proceeds of such insurance policies are greater than the sums required to repair and restore the Premises, all such remaining sums shall be the sole property of Lessee.

15. Waste - Liens. Lessee shall not allow or suffer: (i) any waste of the Premises; or (ii) permit, by reason of any act of Lessee or failure by Lessee to perform any act required herein, any liens or other encumbrances to attach to, or to exist against, the Premises.

16. Indemnification. Lessee shall indemnify, defend, save and hold harmless from and against all liabilities, claims, losses, damages, fines or causes of action (including without limitation all costs of court, investigation, or attorney's fees incurred in connection with such causes of action or claims and any appellate litigation) due to any death or personal injury to any person whomsoever or any property damage whatsoever arising out of, from, or pertaining to:

A. Lessee's operations or the conduct of its business upon the Premises, including without limitation any condition pertaining to the Premises attributable thereto;

and

B. Any breach violation, or nonperformance of any term, covenant, or provision under this Lease Agreement by Lessee, its employees, invitees, licensees and agents.

If Lessor is made a party to any suit or legal action for damages arising from the negligence or other actions of Lessee, its employees, invitees, licensees, or agents (including any of the causes enumerated above), Lessor shall give notice to Lessee of such suit or legal action and Lessee shall thereupon assume all burden, cost and expense incident to the defense, investigation, and settlement of such cause of action or claim, including all costs of court, investigation and attorney's fees in connection therewith, and Lessee shall promptly pay any judgment which may be obtained in such suit or legal action against the Lessor.

17. Assignment and Subletting. Except as to the premises located at 220 North West Avenue, Fayetteville, AR 72702, which currently are sublet for the operation of a "Grubb's" restaurant and as set forth in the next sentence, Lessee may not assign, sublet, mortgage or otherwise encumber its interest or estate in the Premises, or any part thereof, or its rights pursuant to this Lease Agreement, without the prior written consent of Lessor, which consent shall not be unreasonably withheld. Lessee may, without Lessor's consent, assign or sublet all or part of its rights and interests under this Lease Agreement to a wholly-owned subsidiary or any affiliated entity; provided, however, any such assignment or subletting by Lessee, with or without the prior written consent of Lessor, shall not act or release Lessee from its obligations pursuant to this Lease Agreement, including, without limitation, its obligation to pay the rental. Notwithstanding the foregoing, Lessee shall be permitted to allow use of the Premises by art-related entities and resident companies.

18. Total Condemnation of the Premises. If, during the term under this Lease

Agreement, all or a substantial part of the Premises are condemned by an entity having the power of eminent domain, and if such condemnation will materially interfere with Lessee's use of the Premises so that the Premises cannot be made suitable for occupation by reasonable repairs or restoration, or if the Premises are sold to such condemning authority or entity under the threat of condemnation, then Lessee may terminate this Lease Agreement by giving notice thereof to Lessor; thereafter, any award of damages in connection with such condemnation proceedings, or the proceeds of any such sale made to such condemning authority, shall be and remain the sole property of Lessor as to value of any improvements and as to the Lessor with regard to the value of land or real property taken.

19. Partial Condemnation of the Premises. In the event less than a substantial portion of the Premises is taken or condemned by an entity having the power of eminent domain, or sold to such entity under the threat of condemnation, so that such condemnation or sale will not materially interfere with Lessee's use of the Premises, this Lease Agreement shall not terminate, and Lessee shall, at its sole expense, cost and risk, promptly commence and diligently complete, or cause to be promptly commenced and diligently completed, the repair and restoration of the Premises, so that upon the completion of such repairs and restoration the Premises will, to the extent practicable, be suitable for use by Lessee and retain the same appearance, character and commercial value as immediately preceding such condemnation or sale. If the estimated cost of such restoration or repairs equals or exceeds twenty per cent (20%) of the then fair market value (as defined in paragraph 20 below) of the Premises, then prior to the commencement of restoration of repairs, Lessee shall submit for Lessor's approval all drawings and specifications pertaining to repairs or restorations, and Lessee shall not commence any repairs or restorations until Lessor has approved all such drawings and specifications, contracts, contractors, performance and payment bonds (and

the respective sureties thereon) pertaining to such repairs or restoration. An award of damages in connection with such condemnation proceedings, or the proceeds of any such sale made to such condemning entity, shall be applied to reimburse Lessee for its expenses relating to the restoration and repair of the Premises; provided, Lessee alone shall bear all costs of such restoration or repairs in excess of such award pursuant to such condemnation proceedings or the proceeds of any such sale. In the event the award pursuant to such condemnation proceedings or the proceeds of such sale are in excess of the amount necessary to repair and restore the Premises, then all such awards or proceeds shall be and remain the sole property of Lessee. Such partial condemnation of the Premises shall not release Lessee from its obligation to pay any rental then owed.

20. Determining Fair Market Value. If Lessor and Lessee are unable to agree on a fair market value of the Premises, for the purpose of Paragraph 19 above, then Lessor and Lessee shall, within thirty (30) days, each appoint a qualified person to act as an appraiser, and the decision by such appraisers as to the fair market value of the Premises, shall be binding upon Lessor and Lessee (the "**Fair Market Value**"). In the event such appraisers are unable to agree upon a fair market value for purpose of Paragraph 19, then the appraisers designated by Lessor and Lessee shall choose a third duly qualified person, acceptable to both Lessor and Lessee, and the decision of the third appraiser as to the fair market value of the Premises, shall be binding upon both Lessor and Lessee. In the event the fair market value as determined by such appraisers differs from the rental during the month in which the casualty or loss occurred, then upon the determination of a fair market value for the Premises, Lessor and Lessee shall respectively make such reimbursements or payments of excess or insufficient rental as may be appropriate to the extent legally permitted for Lessor.

21. Holding Over. In the event Lessee shall hold over on the Premises, or any part

thereof, after the termination under this Lease Agreement or the expiration of the Term or any extension, unless otherwise agreed in writing such holding over shall constitute and be construed as a tenancy from month to month only; provided, the rental payments during such period of holding over shall be a sum equal to the Fair Market Value of the rental during the month immediately preceding the termination under this Lease Agreement or the expiration of the Term hereof.

22. Inspection. Lessor, acting through its authorized agents and representatives, shall have the right to enter upon the Premises at any and all reasonable times for the purpose of inspecting the general state of repair and condition of the Premises, or for any other reasonable purpose whatsoever, including, but not limited to, emergencies.

23. Default. Any or all of the following shall constitute an event of default ("Event of Default") pursuant to the terms under this Lease Agreement:

A. Lessee's failure for any reason whatsoever to comply with the terms, covenants, conditions and agreements contained herein or to promptly discharge any and all of its obligations and duties pursuant hereto, including without limitation Lessee's failure to pay any sum herein required or failure to provide proof of payment of same;

B. The filing of a petition in bankruptcy by or against Lessee pursuant to any section or chapter of the Bankruptcy Code, as amended, or any other similar law or statute of the United States of America or any state thereof, or entering into any agreement, plan of reorganization or composition with creditors, or any committee thereof;

C. Lessee's becoming insolvent or making a transfer or assignment for the benefit of creditors;

D. The appointment of a receiver or trustee for all, or a substantial part, of Lessee's assets; or

E. The issuance of process for execution upon or the attachment of Lessee's property upon, or interest in, the Premises.

24. Remedies. Upon the occurrence of any Event of Default, Lessee waives all statutory rights of ejectment, and Lessor shall have the option of pursuing any one or more of the following remedies without any notice or demand whatsoever:

A. Terminate this Lease Agreement, in which event Lessee shall promptly surrender the Premises to Lessor, and, if Lessee fails to do so, Lessor may, without prejudice to any other remedy which it may have for possession of the Premises or the collection of any arrearages in rental payments, enter upon, and take possession of, the Premises and expel or remove any agent, representative or employee of Lessee or any other person who may be occupying the Premises, or any part thereof, under the authority of Lessee, without being liable for prosecution of any claim for damages therefore; Lessee agrees to pay to Lessor on demand the amount of all losses and damages which Lessor may suffer by reason of such termination, whether through an inability to relet the Premises on satisfactory terms or otherwise;

B. Enter upon or take possession of the Premises and expel or remove any agent, representative or employee of Lessee, or any other person occupying the Premises, or any part thereof, under the authority of Lessee, without being liable for prosecution or any claim for damages therefore, and thereafter Lessor shall make a diligent and reasonable effort to relet the Premises on commercially reasonable terms, and Lessee shall pay to Lessor, on demand, any deficiency that may arise by reason of Lessor's inability to relet the Premises for a rental equal to that provided herein, regardless of the reason for such failure; Lessor's good faith determination as to what constitutes commercially reasonable terms for reletting the Premises shall be conclusive for purposes of this paragraph; or

C. Enter upon the Premises without being liable for prosecution or any claims for damages therefore, and do and perform whatever acts Lessee is obligated to do pursuant to the terms under this Lease Agreement. Lessee shall reimburse Lessor on demand for any expenses which Lessor may incur in thus affecting compliance with Lessee's obligations pursuant hereto, including, without limitation, all court costs and attorney's fees.

25. No Waiver. The waiver by any party hereto of any breach or violation of any provision under this Lease Agreement shall not act or be construed as a waiver of any prior or subsequent breach hereof, nor shall the pursuit of any of the foregoing remedies (as set forth in Paragraph 24) preclude the pursuit of any other remedies provided herein or applicable law, nor shall the pursuit of any remedy provided herein or by applicable law constitute a forfeiture or waiver of any payments or other sums payable to Lessor pursuant hereto, or of any damages accruing to Lessor by reason of Lessee's violation of any of the terms, conditions, and covenants contained herein.

26. Quiet Enjoyment. Lessor warrants and represents to Lessee that it has fully right and power to execute and perform this Lease Agreement and that Lessee, upon the payment of rental and the performance of the other covenants and terms contained herein, shall peaceably

and quietly have, hold, and enjoy the Premises during the full term under this Lease Agreement.

27. Further Assurances. From time to time, and at all times, Lessor and Lessee shall do all such further acts as may be reasonably required to fully perform and carry out the terms and intent under this Lease Agreement.

28. Entire Agreement. This Lease Agreement constitutes the sole and only agreement between Lessor and Lessee concerning the subject matter hereof and supersedes all prior agreements, arrangements or understandings, if any, whether written or oral, relating to the subject matter hereof.

29. Severability. In case any one or more of the provisions contained in this agreement shall for any reason whatsoever be held invalid, illegal or otherwise unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Lease Agreement shall be construed as if such illegal, invalid or unenforceable provision had never been contained as a part hereof.

30. Applicable Law. This Lease Agreement shall be interpreted and construed, and the respective rights of Lessor and Lessee governed, according to the laws of the State of Arkansas. Nothing contained in this Lease Agreement shall be deemed, construed or operate as a waiver of any immunities to suit available to the University of Arkansas, the City or their respective trustees, officials, or employees.

31. Venue. Unless otherwise finally determined by court of competent jurisdiction, the venue of any suit, cause of action or other legal proceeding pertaining to this Lease Agreement shall be in Washington County, Arkansas, subject to the non-waiver of immunities provision set forth in Paragraph 31.

32. Amendment. This Lease Agreement may only be amended by a writing executed

by both Lessor and Lessee, and thereafter duly delivered by each respectively to the other and incorporated by reference as a part hereof.

33. Headings. The headings of the respective articles or paragraphs under this Lease Agreement are for the purpose and convenience of reference only, and are not intended to be a part of, or to affect the meaning and interpretation of, this Lease Agreement. The Recitals as the beginning of the Lease Agreement are and shall be construed in harmony with all other substantive provisions of this Lease Agreement.

34. Recorded Memorandum. Concurrently with the execution and delivery under this Lease Agreement, Lessor and Lessee shall execute, deliver and promptly file for record in the deed records of Washington County, Arkansas, a memorandum evidencing this Lease Agreement in substantially the same form as the attached Exhibit "C", to which reference is made for all purposes.

35. Binding Effect. This Lease Agreement is binding upon and shall inure to the benefit of the Lessor and Lessee and their respective successors in title and permitted assigns.

36. Notices. All notices, information, offers, payments of rental, or other communications herein required or permitted, shall be in writing and shall be properly given, made or sent when delivered personally to the below identified representative of such party addressed in such writing, or when mailed by prepaid certified or registered mail, return receipt requested, or by overnight delivery service, to such party at its respective address as follows:

If to Lessor:

The City of Fayetteville, Arkansas
____________________, Arkansas

Office of the Chancellor

425 Administration Building
University of Arkansas
Fayetteville, Arkansas 72701

With a copy to:

Office of the General Counsel
421 Administration Building
University of Arkansas
Fayetteville, Arkansas 72701

If to Lessee:

Walton Arts Center Council, Inc.
P. O. Box 3547
Fayetteville, Arkansas 72702
Attention: President and CEO

With a copy to:

Attention: John Alan Lewis
Mitchell, Williams, Selig, Gates & Woodyard, PLLC
5414 Pinnacle Point Drive, Suite 500
Rogers, Arkansas 72758
(479) 464-5656

or to such other respective addresses either Lessor or Lessee may hereafter designate and give notice thereof to the other.

37. Representations and Warranties of Lessee. Lessee hereby covenants and warrants to Lessor that:

A. Lessee is a not-for-profit corporation incorporated pursuant to the laws of the State of Arkansas, has duly paid all applicable franchise taxes and charter fees, and is duly authorized to do business in the State of Arkansas;

B. The undersigned individual, acting as the duly authorized agent of Lessee, has full power and authority to execute this Lease Agreement as the act and deed of Lessee; provided, however, Lessee's taking possession of the Premises, or any part thereof, shall be conclusively deemed as Lessee's ratification under this Lease

Agreement; and Lessee has fully and completely inspected the Premises, and as of the effective date hereof the Premises are adequate and sufficient for the purposes for which they are herein leased. At all times during the Term, shall operate, manage and maintain the Walton Arts Center on Dickson Street in a manner that is generally commensurate with the quality and quantity of performances and activities occurring prior to 2013. In determining whether this standard is met, the City of Fayetteville and the University of Arkansas may take into account the quality, type and number of performances and activities occurring at the Dickson Street facility, including the quality, type and number of: (i) Broadway Musicals and performances; (ii) other theatrical, dance and musical performances; (iii) concert performances and (iii) educational programs.

C. Notwithstanding the foregoing, nothing in this Lease Agreement shall prevent Lessee from providing administrative or support services at the Premises for the benefit of other arts and entertainment venues in and around Northwest Arkansas which are owned, leased, operated or managed by Lessee.

38. Execution. This Lease Agreement was executed by Lessor and Lessee on the dates shown respectively on the acknowledgments of each, but is effective for all purposes on the effective date as set forth above.

39. Counterparts. This Lease Agreement may be executed in multiple counterparts, each of which shall be deemed an original and together shall constitute one and the same instrument. Signatures transmitted electronically via PDF copy or via facsimile shall be binding and make this Lease Agreement effective.

[SIGNATURE PAGE(S) FOLLOW]

"LESSOR"

CITY OF FAYETTEVILLE

By: ______________________________
Mayor

ATTEST:

____
City Clerk

Date: ________________, 2014

BOARD OF TRUSTEES OF THE UNIVERSITY OF ARKANSAS, ACTING FOR THE UNIVERSITY OF ARKANSAS, FAYETTEVILLE

By: ______________________________
Donald R. Bobbitt
President

ATTEST:

____
Secretary

Date: ________________, 2014

"LESSEE"

WALTON ARTS CENTER COUNCIL, INC.

By: ______________________________
Title: ______________________________

ATTEST:

____
Secretary

Date: ________________, 2014

EXHIBIT "A"

DESCRIPTION OF PREMISES

Tract A:

All of Block Six (6), of Original Town of Fayetteville, as per Plat of Record in the Office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas; LESS AND EXCEPT the southeast corner of said block more particularly described as follows: BEGINNING at the Southeast (SE) corner of said Block; thence along the East line of said Block N02°40'06"E a distance of 289.09 feet; thence leaving said East line N87°19'54"W a distance of 105.17 feet; thence S47°59'48"W a distance of 30.24 feet; thence S03°05'54"W a distance of 56.54 feet; thence N87°06'23"W a distance of 14.83 feet; thence S02°37'21"W a distance of 211.63 feet to the South line of said Block; thence along said South line S87°26'40"E a distance of 141.77 feet to the POINT OF BEGINNING.

In addition to the above described parcel, once the parking deck and its north liner building have been completed, the premises leased by the City of Fayetteville and the University of Arkansas to the Walton Arts Center Council, Inc. shall include the north liner building of the parking deck for use of the Walton Arts Center as its Administrative Headquarters, and the lower level as the expanded backstage area for the Walton Arts Center. Upon completion of the parking deck the City agrees to provide twenty-eight (28) parking spaces within the deck for the Walton Arts Center staff's use and another seven (7) parking spaces in the Spring Street parking lot.

Tract B:

A part of Bock 8 of the original town (now City) of Fayetteville, Arkansas, being more particularly described as follows: Beginning at the Northeast corner of Block 8, thence North 87 degrees 50 minutes West 90.82 feet to the East railroad right of way, thence South 29 degrees 34 minutes West 215.87 feet, thence South 27 degrees 34 minutes West 43.4 feet, thence South 22 degrees 28 minutes West 62.9 feet, thence South 18 degrees 24 minutes West 42.4 feet along the East right of way, thence South 88 degrees 57 minutes East 254.70 feet, thence North 325.82 feet to the point of beginning, containing 1.34 acres, more or less.

EXHIBIT "B"

PLAN OF IMPROVEMENT – LESSEE IMPROVEMENT WORK

[TO BE PROVIDED]

EXHIBIT "C"

MEMORANDUM EVIDENCING AN AMENDED AND RESTATED LEASE AGREEMENT

STATE OF ARKANSAS)
)ss
COUNTY OF WASHINGTON)

THIS MEMORANDUM is executed to evidence the terms contained in a written instrument executed _________________, 2014, and effective as provided therein, styled "Amended and Restated Lease Agreement", by which the Board of Trustees of the University of Arkansas, acting for the University of Arkansas, Fayetteville and the City of Fayetteville, Arkansas (collectively, "Lessor") has leased the herein described real property to Walton Arts Center Council, Inc. ("Lessee"), a non-profit corporation, with its principal place of business in Fayetteville, Arkansas. Such Amended and Restated Lease Agreement pertains to the following described tract of real property, to wit:

Tract A:

All of Block Six (6), of Original Town of Fayetteville, as per Plat of Record in the Office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas; LESS AND EXCEPT the southeast corner of said block more particularly described as follows: BEGINNING at the Southeast (SE) corner of said Block; thence along the East line of said Block N02°40'06"E a distance of 289.09 feet; thence leaving said East line N87°19'54"W a distance of 105.17 feet; thence S47°59'48"W a distance of 30.24 feet; thence S03°05'54"W a distance of 56.54 feet; thence N87°06'23"W a distance of 14.83 feet; thence S02°37'21"W a distance of 211.63 feet to the South line of said Block; thence along said South line S87°26'40"E a distance of 141.77 feet to the POINT OF BEGINNING.

Tract B:

A part of Bock 8 of the original town (now City) of Fayetteville, Arkansas, being more particularly described as follows: Beginning at the Northeast corner of Block 8, thence North 87 degrees 50 minutes West 90.82 feet to the East railroad right of way, thence South 29 degrees 34 minutes West 215.87 feet, thence South 27 degrees 34 minutes West 43.4 feet, thence South 22 degrees 28 minutes West 62.9 feet, thence South 18 degrees 24 minutes West 42.4 feet along the East right of way, thence South 88 degrees 57 minutes East 254.70 feet, thence North 325.82 feet to the point of beginning, containing 1.34 acres, more or less.

This memorandum evidencing the Amended and Restated Lease Agreement shall be filed for record in the deed records of Washington County, Arkansas.

EXECUTED AND EFFECTIVE this ______ day of ____________, 2014.

"LESSOR"

CITY OF FAYETTEVILLE

By: ______________________________
Mayor

ATTEST:

____
City Clerk

Date: ________________, 2014

BOARD OF TRUSTEES OF THE UNIVERSITY OF ARKANSAS, ACTING FOR THE UNIVERSITY OF ARKANSAS, FAYETTEVILLE

By: ______________________________
Donald R. Bobbitt
President

ATTEST:

____
Secretary

Date: ________________, 2014

"LESSEE"

WALTON ARTS CENTER COUNCIL, INC.

By: ______________________________

Title: ______________________________

ATTEST:

____
Secretary

Date: ________________, 2014

ACKNOWLEDGMENT

STATE OF ARKANSAS)
)ss:
COUNTY OF WASHINGTON)

On this the ____ day of ____________, 2014, before me, the undersigned, a Notary Public, duly commissioned, qualified and acting within and for said County and State, appeared in person the within-named ____________________ and ____________________ to me personally well known, who stated they were the Mayor and City Clerk of the City of Fayetteville, Arkansas, a municipality, and were duly authorized in their respective capacities to execute the foregoing instrument for and in the name and behalf of said municipality, and further stated and acknowledged that they had so signed, executed, and delivered said foregoing instrument for the consideration, uses and purposes therein mentioned and set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal on this ____ day of _____________, 2014.

____
Notary Public

My Commission Expires:

____

ACKNOWLEDGMENT

STATE OF ARKANSAS)
)ss:
COUNTY OF PULASKI)

On this the ____ day of ________________, 2014, before me, the undersigned, a Notary Public, duly commissioned, qualified and acting within and for said County and State, appeared in person the within-named ______________________ and _____________________ to me personally well known, who stated they were the President and ______________________of the University of Arkansas, and were duly authorized in their respective capacities to execute the foregoing instrument for and in the name and behalf of said entity, and further stated and acknowledged that they had so signed, executed, and delivered said foregoing instrument for the consideration, uses and purposes therein mentioned and set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal on this ____ day of ____________, 2014.

____
Notary Public

My Commission Expires:

____

ACKNOWLEDGMENT

STATE OF ARKANSAS)
)ss:
COUNTY OF WASHINGTON)

On this the ____ day of ________________, 2014, before me, the undersigned, a Notary Public, duly commissioned, qualified and acting within and for said County and State, appeared in person the within-named ______________________ and ______________________ to me personally well known, who stated they were the Chairman and Secretary of the Walton Arts Center Council, Inc., a non-profit corporation, and were duly authorized in their respective capacities to execute the foregoing instrument for and in the name and behalf of said non-profit corporation, and further stated and acknowledged that they had so signed, executed, and delivered said foregoing instrument for the consideration, uses and purposes therein mentioned and set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal on this ____ day of ____________, 2014.

____
Notary Public

My Commission Expires:

____

City of Fayetteville Item Review Form

2014-0245

Legistar File Number

06/17/2014

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

Don Marr
Submitted By

Mayor's Office
Department

Action Required:

An Ordinance to approve the amended Governance documents (Sixth Amendment to the Articles of Incorporation of the Walton Arts Center Council, Inc. and the Fifth Amendment to the Articles of Incorporation of the Walton Arts Center Foundation, Inc.)

Does this item have a cost? No

Cost of this request	Category or Project Budget	Program or Project Name
Account Number	Funds Used to Date	Program or Project Category
Project Number	$0.00 Remaining Balance	Fund Name

Budgeted Item? 　 **Budget Adjustment Attached?**

V20130812

Previous Ordinance or Resolution # ______

Original Contract Number: ______

ENTERED 5/30/14

Comments:

June 3, 2014

June 3, 2014

6-4-2014

CITY OF
Fayetteville
ARKANSAS

STAFF MEMO

TO: City Council Members

THRU: Mayor Jordan
Kit Williams, City Attorney

FROM: Don Marr, Chief of Staff

DATE: May 30, 2014

SUBJECT: **2014-0245 New Inter-local Agreement with U of A, Governance Documents for Walton Arts Center**

RECOMMENDATION:
Staff recommends approval of the New Interlocal Agreement with U of A, Governance Documents for the Walton Arts Center Council Inc.

BACKGROUND:
See the City Attorney Memo dated May 15th, 2014 for the history and specific details of this request. The Memo is attached within this packet to this Staff Memo for the Agenda Item

DISCUSSION:
Pulled excerpts from the City Attorney Memo of 5/15/2014:

The Sixth Amendment to the Articles of Incorporation of the Walton Arts Center Council, Inc.

(A) Removes the designation that the Council is agent of the University and City;
(B) Broadens its "Purposes" Article from only maintaining and operating the Walton Arts Center on Dickson Street to constructing and operating a new Arts facility in Bentonville, the AMP in Rogers, and in cooperation with the U of A possible venues on campus;
(C) Preserves the current level of performances at the Walton Arts Center on Dickson;
(D) Preserves the City and University's power to appoint five (5) members each of the nineteen member board of directors and empowers the Walton Family Foundation to appoint the other nine members rather than having these be "self-appointed" by the other board members. .....All members of the board of Directors should then be responsible and hopefully responsive to the U of A, the City, or the Walton Family Foundation.

The Fifth Amendment to the Articles of Incorporation of the Walton Arts Center Foundation, Inc.

(A) Broadens its purposes from fundraising solely for the Walton Arts Center on Dickson Street to fundraising for the proposed Bentonville facility , Rogers AMP, etc.

(B) Authorizes the Foundation to return the initial deposit of $1.5 million dollars of City General Funds to begin the Foundation to the City, to be used to help pay for the Parking Deck, the Walton Arts Center headquarters building, the expansion project or other needs. Once this $1.5 million is returned to the City, the Foundation no longer needs to be our agent for constitutional reasons and its agency status will be terminated.

(C) Removes the never used power of the U of A Chancellor or the Fayetteville Mayor to basically veto the entire annual budget of the Foundation and Council

BUDGET/STAFF IMPACT:
There is no staff or additional budgetary impact from this governance change

Attachments:
City Attorney Memo May 15, 2014
Walton Arts Center Council, Inc Memorandum May 30, 2014
New Inter-local Agreement
- Sixth Amendment of the Articles of Incorporation of the Walton Arts Center Council, Inc.
- Fifth Amendment of the Articles of Incorporation of the Walton Arts Center Foundation Inc.

DEPARTMENTAL CORRESPONDENCE

OFFICE OF THE
CITY ATTORNEY

Kit Williams
City Attorney

Blake Pennington
Assistant City Attorney

Patti Mulford
Paralegal

TO: **Mayor Jordan**
City Council

CC: **Don Marr,** Chief of Staff
Paul Becker, Finance Director

FROM: **Kit Williams,** City Attorney

DATE: **May 15, 2014**

RE: **New Interlocal Agreement with U of A, Governance Documents for Walton Arts Center, and Lease**

INITIAL MEETINGS

About a year ago, representatives from the Walton Arts Center met with Mayor Jordan and requested a very significant change in how the Walton Arts Center would be governed and managed. Mayor Jordan could not agree to this initial proposal which would have removed most of the City's power and authority. However, he wanted to work with our most generous partner, the Walton Family Foundation, in an effort to preserve the Walton Arts Center's vitality, usefulness, and activity that is so important to our Entertainment District and the quality of life for Fayetteville. This goal to preserve the Walton Arts Center's viability has been our constant lodestar through a year of negotiations.

We then had a meeting with the Chancellor, the U of A Legal Counsel Scott Varady, the Chair of the Walton Arts Center Council (Greg Lee) and other members of the WAC Council including Jeff Gearhart. With its planned expansion into Bentonville to build a larger Arts Center auditorium and its movement of the Arkansas Music Pavilion into Rogers, the Walton Arts Center, Inc. needed to change its Articles of Incorporation to broaden its allowed purposes which are currently limited to solely operating and maintaining the Walton Arts Center on Dickson Street.

Mayor Jordan then met with representatives of the Walton Family Foundation who expressed their desire and willingness to help our Walton Arts Center in Fayetteville to continue to thrive, but wished that the WAC Council and WAC Foundation would no longer be denoted as "agents" of the City or University. By law, an agent owes its principals (the City and University) a fiduciary duty of utmost good faith and loyalty. The Walton Arts Center staff and the Walton Family Foundation were concerned that the City or University might someday try to exercise our rights as principals to hinder its planned expansion out of Fayetteville into Bentonville and Rogers.

PRINCIPAL GOALS OF THE CITY

Mayor Jordan was willing to accommodate the desires of the Walton Family Foundation (as the Walton Arts Center's major regular donor) and the Walton Arts Center Council if we received enforceable assurances and commitments to preserve the Dickson Street Walton Arts Center in a manner similar to its use of the last few years. In other words, we believed we should receive legal commitments that once a new and larger facility was constructed in Bentonville, the Walton Arts Center on Dickson Street would not be relegated to second class status without Broadway musicals, etc.

NEGOTIATIONS WITH WALTON ARTS CENTER AND U OF A ATTORNEYS

I met with and worked for several months with U of A Counsel Scott Varady and Walton Arts Center, Inc.'s Counsel Marshall Ney to try to meet everyone's expectations and goals. I consulted frequently with Mayor Jordan and Chief of Staff Don Marr to ensure the proposed changes to the Articles of Incorporation of Walton Arts Center Council, Inc., the Articles of Incorporation of the Walton Arts Center Foundation, Inc., their By Laws, the U of A and City Interlocal Cooperation Agreement, and the new Lease Agreement were acceptable and headed in the right direction.

Please keep in mind that all documents were the result of careful and thoughtful negotiations and compromises. None of the interested parties: (1) The City of Fayetteville; (2) University of Arkansas; (3) Walton Arts Center Council, Inc.; (4) Walton Arts Center Foundation, Inc. or (5) Walton Family Foundation could just dictate a final agreement. We all had to honor each party's legitimate and reasonable concerns. I can now report to you that I believe we have achieved a balanced agreement that satisfies the concerns and wishes of all parties and protects our Walton Arts Center.

SUMMARY OF IMPORTANT CHANGES

(1) The Sixth Amendment to the Articles of Incorporation of the Walton Arts Center Council, Inc.

(A) Removes the designation that the Council is agent of the University and City.

(B) Broadens its "Purposes" Article from only maintaining and operating the Walton Arts Center on Dickson Street to constructing and operating a new Arts facility in Bentonville, the AMP in Rogers, and in cooperation with the U of A possible venues on campus.

(C) Preserves the current level of performances at the Walton Arts Center on Dickson with the following language:

> "To expand and renovate the existing Walton Arts Center in Fayetteville as currently proposed by the Walton Arts Center Council, Inc., and after the construction and opening of the performing arts venue in Bentonville, to continue to obtain funding for, operate, manage and maintain the Walton Arts Center on Dickson Street in a manner that is generally commensurate with the quality and quantity of performances and activities occurring prior to 2013. In determining whether this standard is

met, the City of Fayetteville and the University of Arkansas may take into account the quality, type and number of performances and activities occurring at the Dickson Street facility, including the quality, type and number of: (i) Broadway Musicals and performances; (ii) other theatrical, dance and musical performances; (iii) concert performances and (iv) educational programs."

(D) Preserves the City and University's power to appoint five members each of the nineteen member board of directors and empowers the Walton Family Foundation to appoint the other nine members rather than having these be "self-appointed" by the other board members. This is a good change since all members of the Board of Directors should then be responsible and hopefully responsive to the U of A, City, or Walton Family Foundation.

(2) The Fifth Amendment to the Articles of Incorporation of the Walton Arts Center Foundation, Inc.

(A) Broadens its purposes from fundraising solely for the Walton Arts Center on Dickson Street to fundraising for the proposed Bentonville facility, Rogers AMP, etc.

(B) Authorizes the Foundation to return the initial deposit of $1.5 million dollars of City General Funds to begin the Foundation to the City to be used to help pay for the Parking Deck, the Walton Arts Center headquarters building, the expansion project or other needs. Once this $1.5 million is returned to the City, the Foundation no longer needs to be our agent for constitutional reasons and its agency status will be terminated.

(C) Removes the never used (and probably never usable) power of the U of A Chancellor or Fayetteville Mayor to basically veto the entire annual budget of the Foundation and Council.

(3) Lease Agreement.

The original twenty five year Lease Agreement of 1992 (which would expire on March 30, 2017, subject to renewal options of the Walton Arts Center) has been amended, restated and basically set to begin again upon its approval for a new 25 year term.

(A) Establishes from its new 25 year term which will not end until 2039.

(B) Requires the Walton Arts Center to begin a capital fundraising campaign to renovate and enlarge the Walton Arts Center on Dickson Street.

(C) Removes the area of the Parking Deck from the lease to ensure the City can manage and receive parking revenue (pledged to the Parking Revenue Bond) for the parking deck (built by those bonds).

(D) Warrants that the Walton Arts Center Council, Inc.

> "(a)t all times during the Term, shall operate, manage and maintain the Walton Arts Center on Dickson Street in a manner that is generally commensurate with the quality and quantity of performances and activities occurring prior to 2013. In determining whether this standard is met, the City of Fayetteville and the University of Arkansas may take into account the quality, type and number of performance and activities occurring at the Dickson Street facility, including the quality, type and number of: (i) Broadway Musicals and performances; (ii) other theatrical, dance and musical performances; (iii) concert performances and (iv) educational programs."

COOPERATION WITH U OF A
(City Attorney's Update to May 15th Memo)

Rather than a quitclaim deed, the University is willing to supply the City a long term lease for the parking deck area for nominal consideration. This prevents some fire code issues and ensures the City's management rights for the parking deck.

May 30, 2014

MEMORANDUM

TO: Mayor Lioneld Jordan
Fayetteville City Council

FROM: Walton Arts Center Council
Greg Lee, Chair

Dear Mayor and Fayetteville City Council Members,

On May 19, 2014, the Walton Arts Center Council and the Walton Arts Center Foundation approved the adoption of amended governance documents as follows for the WAC Council and Foundation:

(a) Fifth Amendment to the Articles of Incorporation of the Walton Arts Center Foundation, Inc.
(b) the Sixth Amendment to the Articles of Incorporation of the Walton Arts Center Council, Inc.
(c) the Amended and Restated Interlocal Cooperation Agreement
(d) the Amended and Restated Bylaws of Walton Arts Center Council, Inc.
(e) the Amended and Restated Lease between the University of Arkansas/City of Fayetteville and Walton Arts Center Council, Inc.

A summary of the effective changes of these documents is attached, as are the draft documents.

The Walton Arts Center Council further recommended that the Walton Arts Center Foundation authorize the return of the City's initial $1.5 million investment to the WAC Foundation as an operating endowment to the City for use in the Spring Street Municipal Parking Deck. The original purpose of the funds was to provide income, through use of their earnings in the endowment, to WAC for operating expenses. The funds have been used in this manner to date. The Walton Arts Center Foundation authorized this return of funds, for reinvestment into the Spring Street Municipal Parking Deck.

As per the existing bylaws, we are requesting approval of the above changes from the City Council and the University of Arkansas Board of Trustees (the UA Trustees approved these amendments at their May 2014 meeting). We ask that the Fayetteville City Council review and approve these documents so that they may take effect.

May 30, 2014

Reasons for the Governance Changes:

Several changes are being proposed to the Governance structure of Walton Arts Center (WAC) in order to clarify existing documents and ensure that WAC can continue to achieve its mandate of serving the arts needs of all residents of Northwest Arkansas. There are two key goals to the changes: 1) ensure clarity and flexibility for WAC to continue to meet growing arts and entertainment desires of the region, and 2) affirm and support the original partnership of the UA and City.

Summary of Document Changes

- **The changes provide WAC and WAC Foundation with:**
  - Absolute clarity around the ability for WAC to expand its programs to other venues throughout NWA;
  - Confirmation that budget and operational oversight rests exclusively with the WAC Council;
  - Removal of the principal/agency relationship that currently exists among WAC, the City and the UA;
  - The WAC Council will continue to have broad regional representation with the acknowledgment of the significant contributions and ongoing support of the Walton Family, with the Walton Family Foundation having appointments to the WAC Council of 9 regional representatives, to serve alongside the City and UA's 5 members appointed respectively.
  - Ability for WAC Council to grow proportionally to 38 members
  - The WAC Foundation will no longer be an agent of the City, and the City will no longer have appointments to the Foundation.

- **In addition, the following protective provisions for the City/UA are included:**
  - The Articles of Incorporation of WAC have been amended to provide assurances regarding the quality and quantity of performances occurring at the Dickson Street facility. The Lease among WAC, the

City and the UA contains an identical covenant. Compliance with these programming assurances can be enforced directly by the City or the UA.
  - The City and the UA will collectively appoint a majority of the members of the Board of WAC, with each retaining the right to appoint 5 members (or a total of 10 out of 19).
  - While the WAC Council may modify the bylaws from time to time, no changes to the bylaws may be made that are inconsistent with or undermine the protective provisions contained in the Articles of Incorporation.
  - The Foundation will return the City's original gift of $1.5 million currently in WAC's operating endowment, and those funds will be reinvested in the parking deck project adjacent to WAC.

- **A New Lease between the City/UA/WAC**
  - WAC has maintained a Lease with the City of Fayetteville and the UA for the Dickson Street facility since 1992. That Lease is scheduled to expire in 2017.
  - In order to ensure the long-term stability and viability of the Dickson Street facility and to support the upcoming major renovation of the facility, WAC, the City, and the UA have proposed a new long-term Lease. The new lease is also needed due to the addition of the municipal parking deck being built on land currently under lease by WAC.
  - The new lease will reflect the changes in the governing documents, specifically providing assurances regarding the quality and quantity of performances occurring at the Dickson Street facility.
  - The term of the new Lease will be for an additional 25 years.

ORDINANCE NO. _______

AN ORDINANCE TO APPROVE THE FIFTH AMENDMENT TO THE ARTICLES OF INCORPORATION OF THE WALTON ARTS CENTER FOUNDATION, INC., THE SIXTH AMENDMENT OF THE ARTICLES OF INCORPORATION OF THE WALTON ARTS CENTER COUNCIL, INC. AND THEIR AMENDED BYLAWS, AND THE AMENDED AND RESTATED INTERLOCAL COOPERATION AGREEMENT BETWEEN THE UNIVERSITY OF ARKANSAS AND THE CITY OF FAYETTEVILLE

WHEREAS, the University of Arkansas and City of Fayetteville incorporated the Walton Arts Center Council and Foundation in 1987 pursuant to their Interlocal Cooperation Agreement of December 9, 1986; and

WHEREAS, the Articles of Incorporation have been amended several times and need a fairly comprehensive amendment now to both ensure the continued vitality and viability of "the Walton Arts Center on Dickson Street in a manner that is generally commensurate with the quality and quantity of performances and activities occurring prior to 2013" and to authorize the Walton Arts Center's right to expand its performance venues into Bentonville and Rogers; and

WHEREAS, the Amended and Restated Interlocal Cooperation Agreement together with proper amendments to the Articles of Incorporation of Walton Arts Center Council, Inc. and Walton Arts Center Foundation, Inc. should assist in the campaign to ensure completion of the Walton Arts Center enlargement and enhancement project; and

WHEREAS, the University of Arkansas Board of Trustees, the Walton Arts Center Council, Inc. Board of Trustees and the Walton Arts Center Foundation, Inc. Board of Trustees have approved this Amended and Restated Interlocal Cooperation Agreement for the Walton Arts Center as well as the Amended Articles of Incorporation and Bylaws for the Council and Foundation.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves the Fifth Amendment to the Articles of Incorporation of the Walton Arts Center Foundation, Inc., the Sixth Amendment to the Articles of Incorporation of the Walton Arts Center Council, Inc. and their amended Bylaws, and the Amended and Restated Interlocal Cooperation Agreement between the University of Arkansas and the City of Fayetteville.

PASSED and **APPROVED** this 17th day of June, 2014.

APPROVED:

By: ____________________
LIONELD JORDAN, Mayor

ATTEST:

By: ____________________
SONDRA E. SMITH, City Clerk/Treasurer

FIFTH AMENDMENT TO THE ARTICLES OF INCORPORATION

OF

THE WALTON ARTS CENTER FOUNDATION, INC.

In order to broaden the purposes for which this corporation currently operates to include managing and investing funds for the operation of the proposed Bentonville performing arts venue, the Arkansas Music Pavilion in Rogers, various venues on the University of Arkansas campus as well as the existing Walton Arts Center and related facilities in Fayetteville, and after the planned expansion and enhancement of the Walton Arts Center on Dickson Street as presented to the Fayetteville voters in 2013 is completed, the construction, acquisition and/or operation of other facilities to meet the arts and entertainment needs of Northwest Arkansas as determined by the Walton Arts Center Council, Inc.,

WE, THE UNDERSIGNED, constituting at least two-thirds of the membership of the Board of THE WALTON ARTS CENTER FOUNDATION, INC., at a meeting of the Board of Directors, pursuant to the authority granted in the ELEVENTH Article of the Articles of Incorporation, do hereby amend the Articles of Incorporation of said Corporation as follows:

1. The THIRD Articles which states the purposes and authorized activities of the corporation is hereby amended by deleting subparagraphs (b) (c) (e) (f) and (g) and substituting the following subparagraphs therefore and adding a new subparagraph (n):

THIRD: The purposes for which this corporation is organized and the activities proposed to be transacted, promoted or carried on by it are as follows, to wit:

(b) To acquire by gift, lease, purchase, or otherwise, and to hold, own or lease any real, personal or mixed property, for the uses and benefit of the Walton Arts Center in Fayetteville, the proposed new performing arts venue in Bentonville, the Arkansas Music Pavilion in Rogers, and various performance arts and entertainment venues on the University of Arkansas campus, with its consent, and after the planned expansion and enhancement of the Walton Arts Center on Dickson Street as presented to the Fayetteville voters in 2013 is completed, the construction, acquisition and/or operation of other facilities to meet the arts and entertainment needs of Northwest Arkansas as determined by the Walton Arts Center Council, Inc.; to receive, invest, reinvest and manage funds received from the University of Arkansas, individuals, corporations, the Walton Arts Center Council, Inc., and others as agent for the University of Arkansas and as long as those University funds remain under the control of the Walton Arts Center Foundation, Inc. Investments of funds received from the University of Arkansas shall be made in accordance with the investment policies of the University of Arkansas and the City of Fayetteville and all applicable laws of the State of Arkansas. This corporation shall promptly return to the City of Fayetteville its initial $1.5 Million investment which together with the University's $1.5 Million investment created the Foundation. This $1.5 Million dollar investment shall be returned to the City of Fayetteville for its use for the City's construction of the Parking Deck to be built on a portion of Block Six (6) of the Original Plat of the Town of Fayetteville, Arkansas (upon which the Walton Arts Center is located on a remaining portion of Block Six) or as otherwise determined by the Fayetteville City Council. Once this $1.5 million has been returned to the City, the Foundation shall no longer be an agent of the City of Fayetteville. Regarding the deposit of the $1.5 million contributed by the University of Arkansas to initially fund the Foundation, the Foundation is empowered to maintain or, with the University of Arkansas' consent, expend the funds for the proposed enlargement and enhancement project for the Walton Arts Center on Dickson Street. Once these funds have been fully used for the project, the Foundation shall no longer be the agent for the University of Arkansas. Funds received from the Walton Arts Center Council, Inc., individuals, corporations and others may be invested in a reasonable, prudent and sound financial manner based upon a policy of this Corporation to be followed in future investment activity and any applicable requirements of law. This Corporation may employ an investment advisor to invest the assents of the Corporation in accordance with the above investment policies.

(c) To establish an endowment; to use a portion of the amount appropriated for expenditure from the endowment to pay the reasonable expenses of the Corporation; to pay all or part of the remaining amount appropriated for expenditure to the Walton Arts Center Council, Inc., for the operation, maintenance and management of the Walton Arts Center in Fayetteville, the proposed performing arts venue in Bentonville and the Arkansas Music Pavilion in Rogers operated and maintained by the Walton Arts Center Council, Inc., as well as other potential performing arts venues on the University of Arkansas at Fayetteville campus with the University's consent, and after the planned expansion and enhancement of the Walton Arts Center on Dickson Street as presented to the Fayetteville voters in 2013 is completed, and the construction, acquisition and/or operation of other facilities to meet the arts and entertainment needs of Northwest Arkansas as determined by the Walton Arts Center Council, Inc.

(e) To borrow money and issue notes or other evidences of indebtedness, upon approval of the Walton Arts Center Council, Inc.

(f) To receive and have the opportunity to review the annual budget of the Walton Arts Center Council, Inc., for its operations, maintenance and fundraising.

(g) To sell, lease, or dispose of any property of the corporation conditioned upon approval of the Walton Arts Center Council, Inc., except that it shall not be necessary to obtain approval to sell any property which is donated, sold in the ordinary course of business, or purchased by the corporation for the purpose of immediate resale, nor to transfer property to the Walton Arts Center Council, Inc., nor to buy, sell or trade property held in an investment portfolio.

(n) This corporation is a public benefit corporation.

2. The FIFTH Article shall be amended by deleting the FIFTH Article and substituting the following therefore:

FIFTH: The principal office of this Corporation shall be located at 229 North School Street, Fayetteville, Arkansas 72701, or at such place as the Board of Directors of this Corporation shall from time to time designate as the location of the principal office.

3. The SIXTH Article shall be amended by deleting the SIXTH Article and substituting the following therefore:

SIXTH: The registered agent of the corporation shall be the President/CEO of the Walton Arts Center, 229 N. School Avenue, Fayetteville, AR 72701, who is currently Peter Lane. The Walton Arts Center Foundation Board of Directors may designate the name of the new registered agent for service of process upon the appointment of a new or interim President/CEO without the need for any approval by the City or University by properly filing such new agent's name with the Secretary of State.

4. The EIGHTH Article shall be amended by adding the following subparagraph (c):

EIGHTH: The City, University of Arkansas, Mayor and Chancellor each shall lose his/her/its right of appointment and removal upon the respective use or return of the initial $1.5 million investment made by the City and the University of Arkansas to this Corporation, with such power of appointment and removal thereafter being vested in the Walton Arts Center Council, Inc.

5. The ELEVENTH Article shall be amended by deleting the ELEVENTH Article and substituting the following therefore:

ELEVENTH: These Articles of Incorporation may be amended by the approving vote of no less than two-thirds (2/3) of all directors of the Corporation provided, however, that no amendment to Articles Three, Eight, Nine and Eleven shall be effective until it has been approved by the Fayetteville City Council and by the Board of Trustees of the University of Arkansas.

SIXTH AMENDMENT TO THE ARTICLES OF INCORPORATION

OF

THE WALTON ARTS CENTER COUNCIL, INC.

RECITALS AND PURPOSES

PREAMBLE

WHEREAS, on January 19, 1987, the University of Arkansas and the City of Fayetteville initially formed and filed the Articles of Incorporation of the nonprofit corporation now entitled The Walton Arts Center Council, Inc. to construct, operate, manage and maintain the Walton Arts Center facility on Dickson Street and related facilities in Fayetteville, Arkansas; and

WHEREAS, using revenues from the University, the City and citizens of Fayetteville and donations from foundations and citizens, the Walton Arts Center Council, Inc. successfully constructed the Walton Arts Center and adjoining facilities and has managed, maintained and operated the Walton Arts Center for decades to present excellent performing arts, entertainment and education for residents and students of Northwest Arkansas; and

WHEREAS, the regional demand for increased performing arts and entertainment opportunities has created the need and desire to construct, renovate, enlarge and adapt the Walton Arts Center in Fayetteville and otherwise improve regional performing arts and entertainment opportunities in a number of ways, which may include:

(a) the renovation and enlargement of the Walton Arts Center in Fayetteville;

(b) the construction of a performing arts venue in Bentonville;

(c) the construction of a music pavilion in Rogers to house the Arkansas Music Pavilion; and

(d) with the express consent of the University of Arkansas, to collaborate and cooperate with the University of Arkansas in Fayetteville for the possible enhancement, remodeling, adaptation, and use of University of Arkansas owned facilities for performance or entertainment venues.

WHEREAS, the need to expand the construction, use and operation of performing arts and entertainment venues within the two county area of Washington and Benton Counties in Northwest Arkansas should be reflected and made an express purpose of the Walton Arts Center Council by placing this expanded purpose within the Articles of Incorporation of the Walton Arts Center Council, Inc. by redrafting Articles Three (3) and Eight (8); and because Amendments to most of these Articles of Incorporations should be made quicker and easier, the requirement that the Fayetteville City Council and University of Arkansas Board of Trustees must approve every amendment should be changed by redrafting Article Eleven (11).

NOW THEREFORE, WE THE UNDERSIGNED, constituting at least two-thirds of the membership of The Board of Directors of THE WALTON ARTS CENTER COUNCIL, INC., at a regular meeting of the Board of Directors held on _________________, 2014, pursuant to the authority granted in the ELEVENTH Article of the Articles of Incorporation, do hereby amend the Articles of Incorporation of the Corporation with the agreement and consent of the University of Arkansas and the City of Fayetteville as follows:

1. The THIRD Article shall be amended by deleting subparagraphs (a) (b) (c) (d) (e) (h) (j) in their entirety and substituting the following therefore and adding a new (r):

THIRD: The purposes for which this corporation is organized and the activities proposed to be transacted, promoted or carried on are as follows:

(a) To have all powers and authorities set forth in or contemplated by the Arkansas Nonprofit Corporation Act, A.C.A. §§ 4-28-201 *et seq.* and any amendments thereto and to fulfill a mission to bring great performing artists and entertainers into Northwest Arkansas and thereby to connect, educate and engage our residents through inspiring arts experiences.

(b) (1) To expand and renovate the existing Walton Arts Center in Fayetteville as currently proposed by the Walton Arts Center Council, Inc., and after the construction and opening of the performing arts venue in Bentonville, to continue to obtain funding for, operate, manage and maintain the Walton Arts Center on Dickson Street in a manner that is generally commensurate with the quality and quantity of performances and activities occurring prior to 2013. In determining whether this standard is met, the City of Fayetteville and the University of Arkansas may take into account the quality, type and number of performances and activities occurring at the Dickson Street facility, including the quality, type and number of: (i) Broadway Musicals and performances; (ii) other theatrical, dance and musical performances; (iii) concert performances and (iv) educational programs.

(2) To obtain funding for, operate, manage and maintain a performing arts venue in Bentonville.

(3) To obtain funding for, operate, manage and maintain a music pavilion in Rogers for the Arkansas Music Pavilion.

(4) To explore mutually agreeable opportunities for collaboration and cooperation with the University of Arkansas for facilities owned and/or operated by the University of Arkansas that with the express consent of the University may occasionally be used as venues for musical and entertainment performances.

(c) To promote and facilitate the exposure to and education about the performing arts for Washington and Benton County primary, secondary and college level students by making its performing arts venues available at reduced fees for special performances or classes for such students and to also promote and facilitate exposure to the performing arts and related fields generally, including working in collaboration with other performing arts venues throughout the State of Arkansas.

(d) To employ a President/CEO for the Walton Arts Center and all other performing arts venues and related facilities managed by the Walton Arts Center Council, Inc. and to employ such other agents and employees as the Council deems proper and advisable.

(e) To promulgate reasonable rules and regulations for the operation and use of the Walton Arts Center and all other performing arts venues and related facilities, including where appropriate, to set reasonable fees for use of such venues, assuring always that the greatest access to the venues shall be provided for users and user groups.

(h) To enlist volunteers to assist in the promoting and assisting in the activities for the Walton Arts Center and all other performing arts venues managed by the Walton Arts Center Council.

(j) To acquire by gift, lease, purchase, or otherwise, and to hold, own or lease any real, personal or mixed property, for the uses and benefit of the Walton Arts Center, the proposed larger performance arts facility in Bentonville and all other facilities that will be constructed, maintained or managed by the Walton Arts Center Council; and to solicit and receive contributions, and to engage in fund-raising activities for the benefit of the Walton Arts Center, the proposed larger performance arts facility in Bentonville and all other facilities that will be constructed, maintained or managed by the Walton Arts Center Council. Any funds received may be turned over to the Walton Arts Center Foundation, Inc., for investment and management.

(r) This corporation is a public benefit corporation.

2. The SIXTH Article shall be amended by deleting the SIXTH Article and substituting the following therefore:

SIXTH: The registered agent of the corporation shall be the President/CEO of the Walton Arts Center, 229 N. School Avenue, Fayetteville, AR 72701, who is currently Peter Lane. The Walton Arts Center Council Board of Directors may designate the name of the new registered agent for service of process upon the appointment of a new or interim President without the need for any approval by the City or University by properly filing such new agent's name with the Secretary of State.

3. The EIGHTH Article shall be amended by deleting subparagraphs (c) and (d) and substituting the following therefore:

(c) The Walton Family Foundation may appoint nine additional Directors to serve as at large members, each of whom must be a resident of the Northwest Arkansas region. All Directors, from whomever or wherever appointed, shall have demonstrated the ability to function as a Director of this Corporation in the interest of its regional goals; shall possess a demonstrated interest in furthering the presentation and appreciation of all types of artistic endeavor; and shall have expressed a desire to further the goals and policies of the Walton Arts Center Council, Inc. through thoughtful and dedicated services on the Board. The initial Directors to be appointed by the Walton Family Foundation shall be appointed as the terms of the previous Directors appointed by the Board of Directors expire. Directors appointed by the Walton Family Foundation may be removed by the Walton Family Foundation at any time with or without cause.

(d) Notwithstanding the limiting language in (a), the Board of Directors may increase the total number of Directors in increments of four with one of the additional members being appointed by the University, one by the City and two by the Walton Family Foundation.

4. The ELEVENTH Article shall be amended by deleting the ELEVENTH Article and substituting the following therefore:

ELEVENTH: These Articles of Incorporation may be amended by the approving vote of no less than two-thirds (2/3) of all directors of the Corporation provided, however, that no amendment to the Recitals and Purposes Section as well as Articles

Three, Eight, Nine and Eleven shall be effective until it has been approved by the Fayetteville City Council, by the Board of Trustees of the University of Arkansas and by the Walton Family Foundation. The Walton Family Foundation, the City of Fayetteville and/or the University of Arkansas in Fayetteville shall individually or jointly have proper standing and legal authority to enforce compliance of the Walton Arts Center Council, Inc. Board of Directors with the purposes of this corporation as stated in Article Three by request for an injunction in the Washington County Circuit Court.

AMENDED AND RESTATED BYLAWS OF WALTON ARTS CENTER COUNCIL, INC.

ARTICLE 1. PURPOSE AND POWERS

1.1. Purpose. These bylaws are intended to amend and restate the bylaws of Walton Arts Center Council, Inc. (the "**Corporation**") originally adopted in December of 1986 and subsequently amended from time to time. The Corporation shall have such purposes as are now or may hereafter be set forth in its Amended and Restated Articles of Incorporation of even date (the "**Articles of Incorporation**") and subsequently filed of record with the Arkansas Secretary of State's office. The Corporation shall be a public benefit corporation. In the event of a conflict between anything in these By-Laws and any provision or requirement of the Articles of Incorporation, the Articles of Incorporation shall prevail.

1.2. Powers. The Corporation shall have such powers as are now or may hereafter be granted by the Arkansas Nonprofit Corporation Act of 1993, except as such powers may be otherwise modified hereby or by the Articles of Incorporation of this Corporation or that certain Amended and Restated Interlocal Cooperation Agreement (the "**Amended Interlocal Agreement**") by and between the City of Fayetteville and the Board of Trustees of the University of Arkansas.

ARTICLE 2. BOARD OF DIRECTORS

2.1. General Powers. All of the business and affairs of the Corporation shall be managed and controlled by the Board of Directors.

2.2. Number. The number of Directors shall be at least nineteen (19). Any person currently serving as a Director of the Corporation shall continue to serve as a Director of the Corporation until his or her term expires and thereafter may be appointed to serve an additional term three (3) years, provided he or she does not exceed three (3) consecutive terms.

2.3. Appointment and Tenure. Directors shall be ratified at each annual meeting or at any regularly scheduled meeting, as needed. A Director shall serve until the earlier of three (3) years, death, resignation or removal. Under no circumstances shall a member of the Board serve for more than 3 consecutive terms and may only be eligible for reelection or reappointment to the Board following an absence or separation of not less than one (1) year.

2.4. Regular Meeting. A regular annual meeting of the Board of Directors shall be held each year on such date, time and place as shall be designated by the Chairman in the notice of the meeting for the purpose of electing officers and for the transaction of such other business as may come before the meeting. The Board of Directors may provide by resolution for the holding of additional regular meetings.

2.5. Special Meetings. Special meetings of the Board of Directors may be called by, or at the direction of the Chairman or a majority of the voting Directors then in office, to be held at such time and place within Northwest Arkansas, as shall be designated in the notice of the meeting.

2.6. Notice. Notice of the time and place of any meeting of the Board of Directors shall be given at least three (3) days prior thereto by written notice delivered personally or sent by mail, facsimile or other electronic transmission to each Director at his or her address as shown on the records of the Corporation. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail in a sealed envelope so addressed, with postage thereon prepaid. If notice be given by facsimile or other electronic transmission, such notice shall be deemed to be delivered when the facsimile or other electronic transmission is transmitted by the sender to the Director's facsimile number or electronic address. Any Director may waive notice of any meeting. The attendance of a Director at any meeting shall constitute a waiver of notice of such meeting, except where a Director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Board needs be specified in the notice or waiver of notice of such meeting, unless otherwise required by law.

2.7. Quorum. A majority of Directors, present in person or by proxy, shall constitute a quorum for the transaction of business at any meeting of the Board.

2.8. Proxies. A Director may vote in person or by proxy executed in writing by the Director. No proxy shall be valid after one month from the date of its execution. Each proxy shall be revocable unless expressly provided therein to be irrevocable, and unless otherwise made irrevocable by law.

2.9. Manner of Acting.

(a) Formal Action By Directors. Except for the removal of a Director pursuant to Article 2.10 hereof, the act of a majority of Directors in person or by proxy present at a meeting at which a quorum is present shall be the act of the Board of Directors. A Director who participates in a meeting via a telephone conference call shall be deemed to be present in person.

(b) Informal Action by Directors. The Board of Directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval, including electronic written approval (such as, for example and without limitation, facsimile transmission or email communication), of all the Directors setting forth the action so taken. Any action so approved shall have the same effect as though taken at a meeting of the Directors.

2.10. Resignations and Removal. Any Director may resign from the Board at any time by giving written notice to the Chairman or the secretary of the Corporation and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective. A Director may be removed without cause by the vote of two-thirds (2/3) of the Directors then in office.

2.11. Vacancies. Any vacancy occurring in the Board of Directors and any directorship to be filled by reason of an increase in the number of Directors shall be filled by appointment in accordance with the provisions of Article 2.3 of these Bylaws.

2.12. Compensation. Directors as such shall not receive any stated salaries for their services, but nothing herein contained shall be construed to preclude any Director from serving the Corporation in any other capacity and receiving compensation therefor.

2.13. Procedure. The Chairman shall preside at meetings of the Board of Directors. The Board of Directors may adopt its own rules of procedure which shall not be inconsistent with these Bylaws.

ARTICLE 3.
BOARD OFFICERS AND ADMINISTRATIVE OFFICERS

3.1. Board Officers/Administrative Officers. The officers of the Corporation shall be a chairman, vice-chairman, secretary and treasurer and shall be current members of the Board. The Corporation may, at the discretion of the Board of Directors, have additional officers. Any two or more offices may be held by the same person, except the offices of Chairman and Secretary. The Board shall negotiate and hire a President and shall appoint administrative officers including chief operating officer and chief financial officer (the "**Administrative Officer**" or "**Administrative Officers**") to serve the Corporation upon such terms and conditions as the Board deems reasonable and prudent. The Chief Executive Officer shall serve at the pleasure of the Board subject to any written employment agreements that may then be in effect. One person may serve in two, but not three, Administrative Officer capacities. In addition, the Administrative Officers shall serve as ex-officio, non-voting members of the Board and shall regularly report to the Board concerning the affairs of the Corporation.

3.2. Election and Term of Office. Other than the Administrative Officers, the officers of the Corporation shall be elected by the Board of Directors at its annual meeting. If the election of officers shall not be held at such meeting, it shall be held as soon thereafter as convenient. Vacancies may be filled or new offices created and filled at any meeting of the Board of Directors. Each officer shall hold office for a term of one (1) year and until his successor shall have been duly elected and qualified unless he shall sooner resign or be removed.

3.3. Removal and Resignations. Any officer appointed by the Board of Directors may be removed by the Board of Directors whenever, in its judgment, the best interests of the Corporation would be served thereby. Any officer may resign at any time by giving written notice to the Chairman or secretary-treasurer of the Corporation, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

3.4. Vacancies. Vacancy in any office may be filled by the Board of Directors for the unexpired portion of the term.

3.5. Chairman. The Chairman shall be appointed from among the Directors of the Corporation. The Chairman may sign any deeds, mortgages, bonds, contracts, or other instruments which have been authorized to be executed except in cases where the signing and execution thereof shall be expressly delegated by the Board of Directors or by these Bylaws or by statute to some other officer or agent of the Corporation.

3.6. Vice Chairman. The Vice Chairman shall assist the Chairman in the execution of his or her duties and shall act in the Chairman's stead and be vested with the Chairman's authority in his or her absence. In the absence of the Chairman, the Vice Chairman shall preside at meetings of the Board of Directors. The Vice Chairman shall perform such other duties as from time to time may be assigned to him or her by the Chairman or the Board of Directors.

3.7. Secretary. The secretary shall give notice and record the proceedings of all meetings, and have custody of the seal of the Corporation.

3.8. Treasurer. The Treasurer shall have custody of the corporate funds, keep records of receipts, disbursements and other transactions, and deposit all monies to the credit of the Corporation. The Treasurer shall have the authority to authorize ordinary expenses of operation of the Corporation which shall be reported to the Board of Directors at each regular meeting. The Treasurer shall render to the Chairman and the Board of Directors, when required, an account of all transactions and the financial condition of the Corporation. The Treasurer shall give the Corporation a bond, as the Board of Directors may require.

ARTICLE 4.
CONTRACTS, LOANS, CHECKS, DEPOSITS AND GIFTS

4.1. Contracts. The Board of Directors may authorize any one or more of the Administrative Officers of the Corporation or some other person, in addition to the officers so authorized by these Bylaws, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Corporation, and such authority may be general or confined to specific instances.

4.2. Borrowing. No loan shall be contracted on behalf of the Corporation and no evidence of indebtedness shall be issued in its name unless authorized by a resolution of the Board of Directors. Such authority may be general or confined to specific instances. The Corporation shall abide by any restrictions set forth in the Amended and Restated Interlocal Cooperation Agreement.

4.3. Checks. All disbursements shall be by check or electronic funds transfer. All checks for the payment of money, notes, or other evidences of indebtedness issued in the name of the Corporation in excess of $5000 shall be signed by at least two (2) of the officers of the Corporation, unless otherwise indicated in any authorizing resolution adopted by the Board.

4.4. Deposits. All funds of the Corporation shall be deposited from time to time to the credit of the Corporation in such banks, trust companies or other depositories as the Board of Directors may select.

4.5. Gifts. The Board of Directors may accept on behalf of the Corporation any contribution, gift, bequest or devise for the general purposes or for any specific purpose of the Corporation; provided, however, the Board of Directors shall abide by the terms and conditions pertaining to the University of Arkansas Fund as that term is defined in the Amended Interlocal Agreement.

ARTICLE 5.
GENERAL PROVISIONS

5.1. Books and Records. The Corporation shall keep correct books and records of account and shall also keep records of the minutes of the proceedings of the Board of Directors. Electronic and hard copies of the minutes of the meetings of the Board of Directors shall be regularly distributed to each member of the Board of Directors. Records of account shall be reviewed by a qualified accountant to be selected by the Board annually at the close of each fiscal year. The results of this review shall be reported directly to the Board.

5.2. Fiscal Year. The fiscal year of the Corporation shall begin on the first day of July and end on the last day of June in each year unless otherwise determined by resolution of the Board of Directors.

5.3. Seal. The Board of Directors may provide a corporate seal, which shall be in the form of a circle and shall have inscribed thereon the name of the Corporation and the words "Nonprofit Corporation" and the state of incorporation.

5.4. Waiver of Notice. Whenever any notice is required to be given under the provisions of the Arkansas Nonprofit Corporation Act of 1993 or under the provisions of the Articles of Incorporation of the Corporation or these Bylaws, a waiver thereof in writing signed by the persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice.

5.5. Loans to Officers and Directors Prohibited. No loans shall be made by the Corporation to its officers, Directors or any Administrative Officer. The Directors of the Corporation who vote for or assent to the making of a loan to an officer or Director of the Corporation, and any officer or officers participating in the making of such loan, shall be jointly and severally liable to the Corporation for the amount of such loan until the repayment thereof.

5.6. Additional Organizations. The Board of Directors may authorize the formation of such auxiliary organizations as would in the opinion of the Board assist in the fulfillment of the purposes of the Corporation.

5.7. Rules. The Board of Directors may adopt, amend or repeal rules (not inconsistent with these Bylaws or the Amended Interlocal Agreement) for the management of the internal affairs of the Corporation and the governance of its officers, agents, committees and employees.

ARTICLE 6.
COMMITTEES

6.1. Standing Committees. Standing Committees of the Corporation shall be designated by action of the Board of Directors. Committee members shall be appointed by the Chairman. The Chairman shall appoint Committee chairmen. Responsibilities of each Committee will be assigned at the discretion of the Board of Directors with the input of the Administrative Officers. Committees may put together proposals for approval by the Board prior to implementation.

6.2. Special Committees. The Chairman may, at any time, appoint additional Committees or Task Forces to address issues and policies of the Association.

ARTICLE 7.
INDEMNIFICATION

7.1. Generally. Except as prohibited under Chapter 42 of the Internal Revenue Code and the regulations thereunder, the Corporation shall indemnify every person who is or has been a Director, officer or Administrative Officer of the Corporation and such persons' heirs and legal representatives where such person is a party or is threatened with being made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, including all appeals, by reason of the fact that such person is or was a Director or officer of the Corporation, or is or was serving at the request of the Corporation in any capacity for any other business organization, against expenses (including attorney's fees), judgment, decrees, fines, penalties and amounts paid in settlement actually and reasonably incurred by such person in connection with such action, suit or proceeding, if such person acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any action, suit or proceeding shall not of itself create a presumption that the person did not act in good faith or in a manner which he reasonably believed to be in or not opposed to the best interests of the Corporation or, with respect to any criminal action, suit or proceeding, that he had reasonable cause to believe that his conduct was unlawful. The foregoing right of indemnification shall be in addition to all rights to which any such Director or officer may be entitled as a matter of law.

7.2. Liability Insurance. The Corporation may purchase and maintain insurance on its own behalf and on behalf of any person who is or was a Director or officer of the Corporation or is or was serving at the request of the Corporation in any capacity for any other business organization, insuring the Corporation and such person against any liability asserted against such person and incurred by him in any such capacity, or arising out of his status as such, whether or not the Corporation would have the power to indemnify such person against such liability under the provisions of this Bylaw or applicable law.

ARTICLE 8.
AMENDMENTS TO BYLAWS

The Bylaws may be altered, amended or repealed and new Bylaws may be adopted by a two-thirds majority of the Board of Directors at any regular or special meeting of the Board so long as such alteration, amendment or repeal does not attempt to circumvent, change, alter, modify or amend any the terms or restriction set out in the Amended Interlocal Agreement pertaining to the City of Fayetteville Fund (as defined in the Amended Interlocal Agreement) or bonds issued by the Corporation and secured by liens on real property in the City of Fayetteville.

CERTIFICATE

I, _______________, Secretary of ____________________, certify that the attached Bylaws were adopted at a meeting of the Board of Directors as of the ___ day of ___________, 2013 following receipt of an executed copy of the Amended Interlocal Agreement approving the form of these Bylaws.

____

____________, Secretary

AMENDED AND RESTATED INTERLOCAL COOPERATION AGREEMENT

THIS AMENDED AND RESTATED INTERLOCAL COOPERATION AGREEMENT ("**Agreement**") is made and entered into between the Board of Trustees of the University of Arkansas for the University of Arkansas, Fayetteville (the "**University of Arkansas**") and the City of Fayetteville, Arkansas (the "**City**") under the authority of Act 430 of 1967, codified as Ark. Code Ann. §§ 25-20-102 *et seq.* and agreed to by the Walton Arts Center Council, Inc. (the "**Walton Arts Center**") and the Walton Arts Center Foundation, Inc. (the "**Foundation**").

WITNESSETH:

WHEREAS, during 1985 and 1986 representatives of the University of Arkansas and the City met to form a committee in order to explore the possibility of a joint venture for the construction and usage of a multi-purpose center for the arts facility in northwest Arkansas (the "**Joint Arts Center Committee**");

WHEREAS, the Joint Arts Center Committee recommended that a center for the arts facility be constructed, owned and operated jointly by the City and the University of Arkansas to serve the arts needs of northwest Arkansas;

WHEREAS, the University of Arkansas and the City entered into an Interlocal Cooperation Agreement dated December 9, 1986 (the "**Base Agreement**"), which authorized the creation of a non-profit corporation now known as Walton Arts Center Council, Inc. for the construction and operation of a center for the arts;

WHEREAS, the Base Agreement was subsequently amended by a First Amendment to Interlocal Cooperation Agreement dated April of 1990 (the "**First Amendment**") and was further amended by a Second Amendment to Interlocal Cooperation Agreement approved by the

City on October 19, 1993 and by the University of Arkansas on June 1, 1993 (the "**Second Amendment**");

WHEREAS, the Base Agreement, First Amendment and Second Amendment are referred to collectively in this Agreement as the "**Original Agreement**";

WHEREAS, a center for the arts facility and related structures and improvements were constructed pursuant to the terms of the Original Agreement and such facility is currently operated by Walton Arts Center;

WHEREAS, the continued purpose and mission of the Walton Arts Center and the Foundation has been and is to facilitate, promote, and serve the arts needs of the residents of Northwest Arkansas;

WHEREAS, the Walton Arts Center has achieved outstanding success in its purpose and mission. In order to continue to (i) serve as an arts and cultural beacon for residents of Northwest Arkansas, (ii) meet the requests of outside donors, and (iii) fulfill its overall duty to the residents of Northwest Arkansas and the state of Arkansas, it is necessary to clarify the mandate and role of the Walton Arts Center so as to permit it to operate other facilities and venues throughout Northwest Arkansas (such region being broadly defined to include Washington, Benton, Carroll and Madison Counties) and the state of Arkansas in general; and

WHEREAS, it is necessary to amend and restate the Original Agreement in its entirety for the following reasons: (a) to reflect the success of the Walton Arts Center; (b) to permit the Walton Arts Center and its governing board to continue to conduct business as a separate, free-standing non-profit corporation whose purpose is to serve the arts needs of Northwest Arkansas; and (c) to confirm that the Walton Arts Center is no longer to be the agent of the University of Arkansas or City of Fayetteville nor restricted pursuant to the terms of the Original Agreement, but only must comply with the terms of this new Lease Agreement being entered into in 2014 (the "2014 Lease Agreement") and its Amended Articles of Incorporation.

NOW, THEREFORE, the Original Agreement is amended and restated in its entirety as provided below.

ARTICLE I

The Walton Arts Center shall have full and complete authority to manage, operate, and maintain the Walton Arts Center in Fayetteville, Arkansas pursuant to its 2014 Lease Agreement and Articles of Incorporation. The Walton Arts Center shall also have full authority to manage, operate and maintain such other facilities in Northwest Arkansas pursuant to its powers and duties contained in its Articles of Incorporation to serve the arts needs of residents of Northwest Arkansas. The purposes, powers and duties of the Walton Arts Center shall be those set out in the Amended and Restated Articles of Incorporation and By-laws.

The separate non-profit corporation, Walton Arts Center Foundation, Inc., now in existence, shall maintain an endowment and pay over to the Walton Arts Center a portion of that endowment or the income or earnings from it not less than annually for the construction, operation, management, and maintenance of Walton Arts Center facilities and programming in Northwest Arkansas, subject to the qualification set forth in Article II below.

ARTICLE II

FINANCIAL CONDITIONS/TERMS

The Foundation shall return or use the Three Million Dollars ($3,000,000.00) contributed by the University of Arkansas and City of Fayetteville to begin the Foundation as follows.

Regarding the $1.5 million contribution by the City of Fayetteville to initially fund the Foundation (along with the $1.5 million from the University of Arkansas), the Foundation is empowered to and shall return this $1.5 million to the City of Fayetteville for the City's use for its construction of the Parking Deck to be built on a portion of Block Six (6) of the Original Plat of the Town of Fayetteville, Arkansas (upon which the Walton Arts Center is located on a remaining portion of Block Six) or as otherwise determined by the Fayetteville City Council. Once this $1.5 million has been returned to the City, the Foundation shall no longer be an agent of the City of Fayetteville.

Regarding the deposit of the $1.5 million contributed by the University of Arkansas to initially fund the Foundation, the Foundation is empowered to maintain or, with the University of Arkansas' consent, expend the funds for the proposed enlargement and enhancement project for the Walton Arts Center on Dickson Street. Once these funds have been fully used for the project, the Foundation shall no longer be the agent of the University of Arkansas.

Any real property currently used or occupied by the Walton Arts Center in the City shall only serve as collateral for a loan or for bonded indebtedness for an existing or new Walton Arts Center facility in the City, if approved in writing by the City.

Simultaneous with the execution of this Agreement, the Walton Arts Center will enter into an amended lease agreement, referred to in this Agreement as the 2014 Lease Agreement, with the University of Arkansas and the City to memorialize the financial and programming commitment the Walton Arts Center will make to the City and the University of Arkansas during the term of the 2014 Lease Agreement.

ARTICLE III

DURATION/REPORTS

The Foundation shall provide a general financial report to the City so long as it continues to have in its possession any portion of the initial $1.5 million contribution from the City, and to the University of Arkansas so long as it continues to have in its possession any portion of the initial $1.5 million contribution from the University of Arkansas.

ARTICLE IV

DISSOLUTION

In the event of dissolution of the Walton Arts Center or the Foundation, all of the net assets of the dissolved corporation shall be distributed and paid out for such charitable purposes as may be determined by the governing documents of the corporation, but otherwise in accordance with the provisions of the Arkansas Non-Profit Corporation Ark. Code Ann. § 4-28-201, as amended, and the Internal Revenue Code.

ARTICLE V

BINDING AGREEMENT

This Agreement shall be binding upon the parties hereto, their successors and assigns and may be signed in one or more counterparts each of which, when taken together, constitutes one agreement.

CITY OF FAYETTEVILLE:

Approved by Resolution adopted by the Fayetteville City Council on the ___ day of ______________, 2014.

____
LIONELD JORDAN, MAYOR

ATTEST: ___________________________
SONDRA SMITH, CITY CLERK

BOARD OF TRUSTEES OF THE UNIVERSITY OF ARKANSAS:

Approved by Resolution adopted by the Board of Trustees of the University of Arkansas on this _______ day of ________________, 2014.

____
JIM VON GREMP, CHAIRMAN
BOARD OF TRUSTEES OF THE
UNIVERSITY OF ARKANSAS

ATTEST: _______________________________
JANE ROGERS, SECRETARY

BOARD OF TRUSTEES OF THE WALTON ARTS CENTER COUNCIL, INC.:

Approved by Resolution adopted by the Board of Trustees of the Walton Arts Center Council, Inc. on the _______ day of _________________, 2014.

____
GREG LEE, CHAIRMAN
BOARD OF TRUSTEES OF THE
WALTON ARTS CENTER COUNCIL, INC.

BOARD OF TRUSTEES OF THE WALTON ARTS CENTER FOUNDATION, INC.:

Approved by Resolution adopted by the Board of Trustees of the Walton Arts Center Foundation, Inc. on the _______ day of _________________, 2014.

____
JERRY VEST, CHAIRMAN
BOARD OF TRUSTEES OF THE
WALTON ARTS CENTER FOUNDATION, INC.

EXHIBIT A

AMENDED AND RESTATED ARTICLES OF INCORPORATION of WALTON ARTS CENTER COUNCIL, INC.

(See attached)

EXHIBIT B

AMENDED AND RESTATED BYLAWS of WALTON ARTS CENTER COUNCIL, INC. (See attached)

EXHIBIT C

AMENDED AND RESTATED ARTICLES OF INCORPORATION of WALTON ARTS FOUNDATION, INC.

(See attached)

EXHIBIT D

AMENDED AND RESTATED BYLAWS of WALTON ARTS CENTER FOUNDATION, INC.

(See attached)

EXHIBIT E

FORM OF AMENDED AND RESTATED LEASE

(See Attached)

City Council Agenda Session 6/10/14

Alderman Adela Gray
Ward 1 Position 1

Alderman Sarah Marsh
Ward 1 Position 2

Alderman Mark Kinion
Ward 2 Position 1

Alderman Matthew Petty
Ward 2 Position 2

Mayor Lioneld Jordan
City Attorney Kit Williams
City Clerk Sondra E. Smith

Alderman Justin Tennant
Ward 3 Position 1

Alderman Martin W. Schoppmeyer, Jr.
Ward 3 Position 2

Alderman Rhonda Adams
Ward 4 Position 1

Alderman Alan T. Long
Ward 4 Position 2

Tentative Agenda
City of Fayetteville Arkansas
City Council Meeting
June 17, 2014

A meeting of the Fayetteville City Council will be held on June 17, 2014 at 5:30 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

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**

Agenda Additions:

A. Consent:

1. Approval of the June 03, 2014 City Council meeting minutes.

2. **Net Neutrality:** A resolution to express the City Council's support for Net Neutrality.

3. **Arkansas Historic Preservation Program:** A resolution approving a grant agreement with the Arkansas Historic Preservation Program in the amount of $8,515.00 for travel and training, and for hiring a qualified consultant to research and catalog historic structures; and approving a budget adjustment recognizing the grant revenue.

B. Unfinished Business: None

C. New Business:

1. **Fayetteville Natural Areas Preservation Account:** A resolution to establish the "Fayetteville Natural Areas Preservation Account", to establish requirements for disbursals therefrom and to approve a budget adjustment of $4,751.00 to recognize the initial donation into this account.

Consent

2. **Arkansas State Highway and Transportation Department:** A resolution to authorize a payment of $3,500,000.00 to the Arkansas State Highway and Transportation Department representing an initial payment of the City's portion of construction, right of way acquisition and utility relocation costs related to the widening of Highway 112.

Why on Tentative agenda?

3. **Pacific Vet Group-USA Contract:** A resolution to repeal Resolution No. 143-14 and to sell about 24 acres in the Fayetteville Commerce District (formerly Industrial Park) to Pacific Vet Group-USA, Inc. for $360,000.00 and other valuable consideration and to approve a budget adjustment.

4. **Walton Arts Center Council, Inc. Lease:** A resolution to approve an amended and restated lease agreement among the University of Arkansas and City of Fayetteville as landlords and the Walton Arts Center Council, Inc. as tenant.

5. **Amended Articles of Incorporation for the Walton Arts Center Council and Foundation:** An ordinance to approve the Fifth Amendment to the Articles of Incorporation of the Walton Arts Center Foundation, Inc., the Sixth Amendment of the Articles of Incorporation of the Walton Arts Center Council, Inc. and their amended Bylaws, and the Amended and Restated Interlocal Cooperation Agreement between the University of Arkansas and the City of Fayetteville.

D. City Council Agenda Session Presentations:

1. "My Fayetteville Services" Presentation by City GIS director Greg Mitchell

E. City Council Tour:

F. Announcements:

Not on the electronic agenda

Adjournment:

NOTICE TO MEMBERS OF THE AUDIENCE

All interested persons may address the City Council on agenda items of New and Old Business. Please wait for the Mayor to request public comment and then come to the podium, give your name, address, and comments about the agenda item. Please address only the Mayor. Questions are usually answered by the Mayor, Aldermen or Staff after the public comment period is over. Please keep your comments brief and respectful. Each person is only allowed one turn at the microphone for discussion of an agenda item.

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

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 an Alderman 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.

Old business and new business.

Presentations by staff and applicants. Agenda items 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 an alderman later to answer questions. Staff and applicants may use electronic visual aids in a City Council meeting as part of their presentation.

Public comments. Public comment shall be allowed for all members of the audience on all items of old and new business and subjects of public hearings. No electronic visual aid presentations shall be allowed, but the public may submit photos, petitions, etc. to be distributed to the City Council. If a member of the public wishes for the City Clerk to distribute materials to the City Council before its meeting, such materials should be supplied to the City Clerk office no later than 9:00 a.m. on the day of the City Council meeting. Any member of the public shall first state his or her name and address, followed by a concise statement of the person's position on the question under discussion. Repetitive comments should be avoided; this applies to comments made previously either to the City Council or to the Planning Commission when those Planning Commission minutes have been provided to the Aldermen. All remarks shall be addressed to the Mayor or the City Council as a whole and not to any particular member of the City Council. No person other than the Aldermen and the person having the floor shall be permitted to enter into any discussions without permission of the Mayor. No questions shall be directed to an Alderman or city staff member except through the Mayor.

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 rude or derogatory remarks, reflections as to integrity, abusive comments and statements about motives or personalities. 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 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 at www.fayetteville-ar.gov or in the office of the City Clerk, 113 W. Mountain, Fayetteville, Arkansas.

Pre Agenda Meeting 6/3/14

Alderman Adela Gray
Ward 1 Position 1

Alderman Sarah Marsh
Ward 1 Position 2

Alderman Mark Kinion
Ward 2 Position 1

Alderman Matthew Petty
Ward 2 Position 2

Alderman Justin Tennant
Ward 3 Position 1

Alderman Martin W. Schoppmeyer, Jr.
Ward 3 Position 2

Alderman Rhonda Adams
Ward 4 Position 1

Alderman Alan T. Long
Ward 4 Position 2

Mayor Lioneld Jordan
City Attorney Kit Williams
City Clerk Sondra E. Smith

Tentative Agenda
City of Fayetteville Arkansas
City Council Meeting
June 17, 2014

A meeting of the Fayetteville City Council will be held on June 17, 2014 at 5:30 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

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**

Agenda Additions:

A. Consent:

1. Approval of the June 03, 2014 City Council meeting minutes.

2. **Net Neutrality:** A resolution to express the City Council's support for Net Neutrality.

3. **Arkansas Historic Preservation Program:** A resolution approving a grant agreement with the Arkansas Historic Preservation Program in the amount of $8,515.00 for travel and training, and for hiring a qualified consultant to research and catalog historic structures; and approving a budget adjustment recognizing the grant revenue.

B. Unfinished Business:

1.

C. New Business:

1. **Fayetteville Natural Areas Preservation Account:** A resolution to establish the "Fayetteville Natural Areas Preservation Account", to establish requirements for disbursals therefrom and to approve a budget adjustment of $4,751.00 to recognize the initial donation into this account.

2. **Arkansas State Highway and Transportation Department:** A resolution to authorize a payment of $3,500,000.00 to the Arkansas State Highway and Transportation Department representing an initial payment of the City's portion of construction, right of way acquisition and utility relocation costs related to the widening of Highway 112.

removed from agenda after preagenda mtg.

3. **Pacific Vet Group-USA Contract:** A resolution to repeal Resolution No. 143-14 and to sell about 24 acres in the Fayetteville Commerce District (formerly Industrial Park) to Pacific Vet Group-USA, Inc. for $360,000.00 and other valuable consideration and to approve a budget adjustment. Waiting on signed contracts from Chung.

4. **Walton Arts Center Council, Inc. Lease:** A resolution to approve an amended and restated lease agreement among the University of Arkansas and City of Fayetteville as landlord and the Walton Arts Center Council, Inc. as tenant.

5. **Walton Arts Center Council, Inc. Fifth Amendment:**

D. City Council Agenda Session Presentations:

1. "My Fayetteville Services" Presentation by City GIS director Greg Mitchell

E. City Council Tour:

F. Announcements:

Adjournment:

NOTICE TO MEMBERS OF THE AUDIENCE

All interested persons may address the City Council on agenda items of New and Old Business. Please wait for the Mayor to request public comment and then come to the podium, give your name, address, and comments about the agenda item. Please address only the Mayor. Questions are usually answered by the Mayor, Aldermen or Staff after the public comment period is over. Please keep your comments brief and respectful. Each person is only allowed one turn at the microphone for discussion of an agenda item.

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

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 an Alderman 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.

Old business and new business.

Presentations by staff and applicants. Agenda items 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 an alderman later to answer questions. Staff and applicants may use electronic visual aids in a City Council meeting as part of their presentation.

Public comments. Public comment shall be allowed for all members of the audience on all items of old and new business and subjects of public hearings. No electronic visual aid presentations shall be allowed, but the public may submit photos, petitions, etc. to be distributed to the City Council. If a member of the public wishes for the City Clerk to distribute materials to the City Council before its meeting, such materials should be supplied to the City Clerk office no later than 9:00 a.m. on the day of the City Council meeting. Any member of the public shall first state his or her name and address, followed by a concise statement of the person's position on the question under discussion. Repetitive comments should be avoided; this applies to comments made previously either to the City Council or to the Planning Commission when those Planning Commission minutes have been provided to the Aldermen. All remarks shall be addressed to the Mayor or the City Council as a whole and not to any particular member of the City Council. No person other than the Aldermen and the person having the floor shall be permitted to enter into any discussions without permission of the Mayor. No questions shall be directed to an Alderman or city staff member except through the Mayor.

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 rude or derogatory remarks, reflections as to integrity, abusive comments and statements about motives or personalities. 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 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 at www.fayetteville-ar.gov or in the office of the City Clerk, 113 W. Mountain, Fayetteville, Arkansas.

CityClerk

From: Marr, Don
Sent: Thursday, May 22, 2014 12:21 PM
To: CityClerk
Subject: RE: Agenda Session Information Item

Categories: Completed

Yes I do approve adding this to the agenda.
Thanks,
Don

Don Marr
Chief of Staff
Office of the Mayor
City of Fayetteville Arkansas
T 479.575.8330 | **F** 479.575.8257
website | facebook | twitter | youtube

From: CityClerk
Sent: Thursday, May 22, 2014 11:42 AM
To: Marr, Don; Jordan, Lioneld
Subject: FW: Agenda Session Information Item

We will please approve adding this to the June 10th Agenda Session meeting. Currently there are no other presentations listed.

Lisa

Office of the City Clerk Treasurer
113 W. Mountain Street, Suite 308
Fayetteville, AR 72701
479.575.8323
cityclerk@fayetteville-ar.gov
Website | Facebook | Twitter | YouTube

CITY OF
Fayetteville
ARKANSAS
www.fayetteville-ar.gov

From: Smith, Lindsley
Sent: Thursday, May 22, 2014 11:37 AM
To: McCoy, Dee; CityClerk
Subject: Agenda Session Information Item

Please add the following as an information item for the June 10th Agenda Session:

Presentation of “My Fayetteville Services” by City GIS director Greg Mitchell

6-17-14 City Council Minutes

Nominating Committee Report

Wednesday, June 11, 2014

Members Present – Chair Justin Tennant, Adella Gray and Mark Kinion

Members Absent – Rhonda Adams

The Mayor recommends the following candidate for appointment:

HISTORIC DISTRICT COMMISSION
Laura Chioldi – One Term ending 06/30/17
Joshua Youngblood – One Term ending 06/30/17

The Nominating Committee recommends the following candidates for appointment:

ANIMAL SERVICES ADVISORY BOARD
Lea Criss – One Citizen-at-Large term ending 06/30/17
Michael Compton – One Citizen-at-Large term ending 06/30/17

CITY BOARD OF HEALTH
No applications were received – One Unexpired Physician term ending 12/31/16

ENVIRONMENTAL ACTION COMMITTEE
Kelly Magoulick – One Science Discipline term ending 06/30/17
Richard Russell – One Community Citizen-at-Large Term Ending 06/30/17

FAYETTEVILLE ARTS COUNCIL
Dianne Wood Williams – One Working Artist term ending 06/30/17
Beth Woessner – One Arts and Cultural/Citizen-at-Large term ending 06/30/17
Justin Hunter – One Arts and Cultural/Citizen-at-Large term ending 06/30/17

WALTON ARTS CENTER COUNCIL
Hershey Garner – One term ending 06/30/17
Sarah Lewis – One term ending 06/30/17

WALTON ARTS CENTER FOUNDATION
Craig Shy – One Term ending 06/30/17